S. HRG. 100-621

PROPOSED FISCAL YEAR 1989 BUDGET REQUEST
(Forest Service and FERC)

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

TO REVIEW THE PRESIDENT'S PROPOSED BUDGET FOR FISCAL YEAR 1989 IN CONNECTION WITH THE PREPARATION OF THE MARCH 25 REPORT TO THE SENATE BUDGET COMMITTEE

MARCH 3, 1988

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PROPOSED FISCAL YEAR 1989 BUDGET REQUEST

(Forest Service and FERC)

THURSDAY, MARCH 3, 1988

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 9:48 a.m. in room SD-366, Dirksen Senate Office Building, Hon. Jeff Bingaman, presiding.

OPENING STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

Senator BINGAMAN. This hearing will come to order.

The purpose of the hearing before the committee is to receive testimony regarding the President's proposal Fiscal Year 1989 budget for the Forest Service and for the Federal Energy Regulatory Commission.

We want to welcome Chief Robertson and Chairman Hesse this morning, and I guess we will go right to the testimony on the Forest Service budget unless any of my colleagues have opening statements they want to give.

Did you have anything, Senator Murkowski?

STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Mr. Chairman, I look forward to the witnesses.

As I think most people are aware, the timber industry in our state is a very, very major industry. It has been in a down cycle for some years. It is coming back now at a rather dramatic rate, and I feel quite confident that with the current policies being retained, within a very, very short time there will be substantial revenues back to the Federal Government based on the stumpage returns.

I trust that those considerations will be recognized in the request for the Tongass National Forest budget, which is so necessary in relationship to making timber accessible as a consequence of the substantial acreage that has been taken out and put in wilderness in perpetuity.

As a consequence of the policy changes over the last decade and the decline in the markets previously, figures that are provided for economic justification of policies reflect those down cycles and do

not reflect current market conditions and as a consequence of the returns being generated now and the economics, the forecast for the future is indeed bright, and there will be substantial returns to the Federal Treasury.

Unfortunately, Mr. Chairman, I have about three things going in Intelligence and Foreign Relations, and I am about to be perhaps issued a warrant here if I am not careful because there is a lack of quorum at a certain committee. We will say more about that later. I am sure my friend from Kentucky may have an appropriate comment.

Senator FORD. If you want to issue a warrant, you go ahead. I will go easy. When those big fellows come after me with those lugs on their hips, I am going to move. I am not going to wait around or put my PAC money against the door to keep them from getting in.

[Laughter.]

Senator MURKOWSKI. I do not know what kind of stripes either one of us would have if we spent much time in the Gray Bar Hotel, but there seems to be an affinity for that. So we will proceed with business.

Senator BINGAMAN. Senator Ford, did you have any statements you wanted to give?

Senator FORD. I have already made it.

Senator BINGAMAN. You have made your statement?

[Laughter.]

Senator BINGAMAN. Senator McClure has a written statement he wanted to have entered in the record, and we will do that, also.

[The prepared statement of Senator McClure follows:]

OPENING STATEMENT
SENATOR JAMES A. McCLURE (R-ID)
COMMITTEE ON ENERGY AND NATURAL RESOURCES
THURSDAY, MARCH 3, 1988 (9:30 a.m.)

Mr. Chairman, I would like to make a brief statement before we hear from the Chairman Martha Hesse and representatives of the Forest Service.

Over the last seven years, significant changes have been made in the policies and programs of the Forest Service. Greater emphasis has been placed on production and increased development of our national forests. Due to budget constraints, however, we are threatening the long-term economic viability of this resource, upon which many Americans depend for their livelihood.

Soon the Senate will consider the trade agreement with Canada. Its principal objective is to foster free trade with the United States. However, its objective is unlikely to be achieved if the economic viability of our domestic timber industry is threatened by Federal budgetary policies.

We all have different opinions on which Forest Service programs should be emphasized. As I observed on Tuesday, the Administration once again proposes a moratorium on land acquisition, yet the current backlog of authorized but not yet purchased tracts is 1.3 to 2.0 million acres. Where is the Administration's proposal to deal with this backlog?

I would note that on one point there is general opposition -- that is the Administration's proposal to dispense timber receipts on a net, rather than gross, basis. Such unrealistic proposals must be viewed as a ruse by the Administration to simply make the President's budget appear in compliance with Gramm-Rudman-Hollings, when it is not.

* * * * *

The Federal Energy Regulatory Commission has a special role in assuring the economic viability of our nation's oil and gas supply system. This responsibility is less well defined with respect to our country's electric supply system.

We are all concerned with assuring reliable supplies of electricity at reasonable prices. I support the recent efforts by the Commission to address the PURPA avoided cost problem. Last months hearings by this Committee were a useful review of the Commission's activities in this regard, and I look forward to the additional Committee hearings that Chairman Johnston has indiciated will be held.

What is unclear, however, is how far the Commission either intends to go, or is prepared to go, or should go, to foster competition. It also is unclear how much discretion the State utility commissions would have and how they may be affected by these. In addition, it is unclear whether FERC's ultimate objective is, or the results it will cause, in an actual restructuring of the industry. From this perspective, it is critical that ample opportunity be provided for public comment. That is why I, along with Senators Ford and Johnston, wrote the Commission urging a 120 comment period and an opportunity for reply briefs. I look forward to the Commissions affirmative response to this request.

I am also concerned about the direction that the Commission appears to be taking in recent hydroelectric decisions with respect to water rights. But I will pursue this matter later in my questions.

Thank you, Mr. Chairman.

Senator BINGAMAN. Mr. Robertson, would you come forward and go ahead and give us your testimony, please?

STATEMENT OF HON. F. DALE ROBERTSON, CHIEF, U.S. FOREST SERVICE, DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY GEORGE LEONARD, ASSOCIATE CHIEF

Mr. ROBERTSON. Thank you, Mr. Chairman. I have George Leonard with me, the Associate Chief of the Forest Service.

Senator BINGAMAN. Welcome. We are glad to have you here, Mr. Leonard.

Mr. LEONARD. Thank you, sir.

Mr. ROBERTSON. I will just briefly give you an overview of the Forest Service budget.

In view of Gramm-Rudman and the effort to reduce the Federal deficit, I think the Forest Service budget for Fiscal Year 1989 is a pretty good budget.

For example, I think our proposed budget for management of the national forests is a much better balanced budget than we have presented to this committee in the past. That is not to say that there are not some controversial items in our budget, and some of them will draw some attention.

So I would like to briefly highlight the key points.

First, our budget is proposed for $2.3 billion. Our anticipated receipts for Fiscal Year 1989 are $1.4 billion.

In the case of forest research, we are proposing to eliminate the funding for competitive grants, which was about $3 million in Fiscal Year 1988, and after taking that into account it represents about a 3 percent reduction in forest research.

State and Private Forestry is probably our most controversial part of this budget because it does represent a change in the role of the Federal Government in Private Forestry. Yet, it is consistent with the administration budget over the past few years.

This budget represents about a 51 percent reduction in total, and most of that is coming out of financial assistance to the state.

About 75 percent of our State and Private Forest budget goes toward forest pest management on Federal lands.

The budget proposes to eliminate the Forest Management and Utilization Program which involves forestry assistance to land owners, nursery and seedling production, tree improvement, and the urban forestry program.

The States will have to pick up this entire job or reduce the amount of effort going into forestry in helping private land owners.

In the case of the National Forest System, as I have already said, I think we are presenting a better balanced budget than we have in the past.

There is more funding to support our initiatives in outdoor recreation and fish and wildlife. We are trying to build upon a major success story in our Challenge Grant Program, and there is about $8 million in this budget for challenge grants or challenge cost sharing for fish and wildlife and outdoor recreation.

This is all aimed at trying to round out the multiple use management on the national forest.

In the case of timber sales we are proposing 11.2 billion board feet program. That is down from 11.5 in Fiscal Year 1988.

I might add that we set a record in Fiscal Year 1987 for timber harvest in the national forests, 12.7 billion board feet, a very good market. The inventory of timber sales under contract is about two years right now, and that is the lowest it has been in many, many years.

Land acquisition funding is down to $3.9 million, which is just to do the staff work to close existing cases. There are no proposed new acquisitions in this budget.

With that, Mr. Chairman, I will be happy to answer questions.

[The prepared statement of Mr. Robertson follows:]

STATEMENT OF
F. DALE ROBERTSON, CHIEF
FOREST SERVICE
U.S. DEPARTMENT OF AGRICULTURE

Before the Senate Committee on Energy and Natural Resources

March 3, 1988

Mr. Chairman and Members of the Committee:

I welcome this opportunity to discuss the President's budget request for Forest Service programs for fiscal year 1989.

FY 1989 Budget

The 1989 budget request for the Forest Service is $2.3 billion. At this funding level, we will continue to do high-priority research, protect Federal lands from pests, and provide a balanced resource management program on the National Forests and Grasslands. Receipts from land managed by the Forest Service are estimated at $1.4 billion.

Forest Research

We propose $129.3 million for forest research, compared with $135.5 million appropriated in 1988. This budget would permit us to continue a strong research effort in all budget categories. We will emphasize research on southern forest productivity, wildlife and fish interactions with timber management, forest insect and disease outbreaks, international trade and competitiveness, forest management in the wildland/urban interface, and interactions between the forest and the atmosphere. We propose to eliminate funding for competitive grants.

State and Private Forestry

The budget request includes $34.8 million, compared with $76.5 million appropriated in 1988. The primary emphasis will be on forest pest management on Federal lands and technical assistance to the States. The States will be expected to assume more responsibility for assisting private landowners. The Federal role will be to provide limited specialized technical assistance and coordination, collect and analyze data nationwide, and serve as an information clearinghouse.

Except for the cooperative pest surveys and funding to Minnesota for intensive management associated with the Boundary Waters Canoe Area wilderness, financial assistance to States would be discontinued. Also, the forest management and utilization program, including urban forestry, would be terminated.

National Forest System

We propose funding of $1.2 billion, about the same as the 1988 appropriation. The biggest change from 1988 is in fire fighting expenses, where we propose $35 million, compared with $125 million in the 1988 appropriation. We plan to offer 11.2 billion board feet of timber, compared with 11.5 billion board feet in 1988. We expect a harvest level of 12.2 billion board feet.

Construction

We propose $204.0 million, compared to $214.1 million appropriated in 1988. Recreation Construction ($19.2 million) and Trail Construction ($12.6 million) are proposed to be financed from a new receipts account, Operation and Maintenance of Recreation Facilities. We will be proposing legislation to expand the funding sources and uses for this new account created by the recent budget reconciliation act.

Land Acquisition

We request $3.9 million to close existing cases. No new acquisitions are proposed at this time. Land exchanges will be relied upon to acquire other high-priority tracts.

National Recreation and Wildlife Strategy

We will emphasize creating more high quality outdoor recreation and improving habitat for wildlife and fish to respond to the needs of our customers. We are challenging current and new partners and cooperators to offer needed services and stimulate rural tourism and recreation economies. We have been successful in wildlife cost-sharing, and we are expanding this concept to recreation. We have included $3 million for challenge cost-share agreements in recreation and $5 million for wildlife in the 1989 budget request.

Mr. Chairman, this concludes my remarks. I will be happy to answer any questions the Committee might have.

TIMBER OFFER PROGRAM

Senator BINGAMAN. Let me ask on the reduction of the anticipated sale level down to 11.2 billion board feet, could you explain why you reduced that from the 11.5? What caused that change in your projection?

Mr. ROBERTSON. I think there are a couple of factors. First, the 11.5 reflected about $1.3 million of fire damage salvage timber in California and Oregon last year due to the big fire.

Secondly, in today's budget world you have to look at the bottom line and how you distribute the funding among the various programs. So there is a budget consideration. Most of the economists are projecting a slightly downward trend in housing starts in fiscal years 1988 and 1989, which is the primary use of lumber and plywood.

CULTURAL RESOURCES

Senator BINGAMAN. Let me ask on your budget for preservation of cultural resources, the problems of vandalism and pot hunting and some of those types of activities out in my part of the country. I have asked about that in previous years.

I gather that there is going to be a cut in law enforcement activities related to this, and I guess I would like you to describe what your expectation is there and how you justify it.

Mr. ROBERTSON. Mr. Chairman, our budget for Fiscal Year 1989 for cultural resources is $12.8 million. That is down about $2 million from Fiscal Year 1989 base.

This budget for cultural resources is adequate to do a minimum job in terms of mitigation efforts, taking care of the cultural resources as we go about our ground-disturbing activities on the national forest, such as timber harvesting, road building or grading, or other kinds of activities on the national forests.

It does not envision any increase in law enforcement or moving out and evaluating some of the properties that we found on the national forest.

Senator BINGAMAN. You say it does not contemplate a decrease in law enforcement, did you say?

Mr. ROBERTSON. It would be about the same level, maybe slightly less, than 1988.

Senator BINGAMAN. It seemed to me in this breakdown that I was supplied with here, it shows that the majority of that $2 million decrease is coming out of salaries and benefits. I assume that just means you have fewer people who are going to be working, which I assume means you have less attention to the problem and you are giving it a lower priority than it has had in the past.

Am I wrong about that?

Mr. ROBERTSON. The best way to describe that is the $2 million reduction in cultural resources is primarily coming out of the effort going into evaluating sites that we have found, and there is some reduction in law enforcement.

What we are maintaining in this budget is having the archeologists and other cultural resource specialists out there on our project-type work where there are some ground-disturbing activities. Our number one priority is that we do not destroy cultural re-

sources as we go about other management activities on the national forest.

In total, there is a reduction of about 27 full-time equivalents in cultural resource management, and I suspect a small part of that will be in law enforcement.

Senator BINGAMAN. I guess the reason I am asking about it is all the information I received from the southwest or from New Mexico is that problems are increasing very significantly, the problem of vandalism on public lands and illegal digging of these archeological sites. It seems that that is unusual if that is true.

Now, maybe you can comment as to whether you agree that the problem is becoming more severe. If it is becoming more severe, it just seems like an unusual place to cut the budget by 16 or 18 percent.

Mr. ROBERTSON. Mr. Chairman, I just do not have a feel for if the problem is getting worse or not. I know it is a problem. In fact, we had some success stories last year in terms of apprehending and prosecuting some people that were taking artifacts and other cultural resources from the national forest.

But I will have to ask our people out in New Mexico and Arizona whether the problem is getting worse or not and get back with you.

Senator BINGAMAN. Okay.

I see a statement in your own prepared budget submission that says the loss of cultural resources to vandalism, pot hunting, illegal digging and thefts in many parts of the country is a great concern.

Mr. ROBERTSON. Yes.

Senator BINGAMAN. It does not say explicitly that it is getting worse, but I certainly have that strong impression from the people I have talked to with the Forest Service out in my part of the country.

If you could get back to me on that, I would appreciate it.

Mr. ROBERTSON. I will be glad to do that.

WILDLIFE AND FISH

Senator BINGAMAN. In fish and wildlife management, I guess you are proposing a $5 million decrease there. Could you explain that?

Mr. ROBERTSON. Yes. That is about $5 million below the 1989 base.

You have to remember that we basically put a lot of this budget together before we knew what our 1988 budget would be.

This 1989 budget does represent an increase over 1987, but the Congress added a significant amount of money in our fish and wildlife budget in 1988. It was, in fact, a 11.5 percent increase in 1988 due to Congressional priorities. This budget retains about half of that increase that Congress added in 1988. So it is over 1987, but less than 1988.

Senator BINGAMAN. So you basically are taking the view that Congress' action in increasing it as much as it did last year was not something you agree with relative to your other priorities?

Mr. ROBERTSON. The budget that came up here reflected our relative priorities.

Senator BINGAMAN. This one does, also, so that you are assigning a lower priority to this than the Congress has?

Mr. ROBERTSON. I would have to say Congress decided to increase our budget more than we asked for last year, and we are able to maintain most of that in the President's budget, or at least half of it, in 1989.

ROAD CONSTRUCTION

Senator BINGAMAN. On another issue, I guess, of priorities, your budget reflects a 47 percent increase in new road construction, going up from 359 to 528 miles of new road construction under this budget.

I guess you are also projecting a 22 percent increase in reconstruction, the number of miles of reconstruction. Just like I was asking why fish and wildlife and cultural resources were being cut back, why is this being increased 47 percent?

Mr. ROBERTSON. Mr. Chairman, there are about 30,000 to 40,000 individual timber sales out there that we propose to make in Fiscal Year 1989. This road budget is based on our people on the ground looking at those individual timber sales, and looking at the roadwork it takes to do the job. This is a summation of the road construction necessary to do all of those individual timber sales.

Now, there is a shift in mix in timber sales. Remember that Congress pass the Timber Sale Contract Relief Act a few years ago, and there was about 10 billion board feet of timber that had been sold that came back to the Forest Service. We have put the bulk of that 10 billion board feet back on the market as part of our timber sales program over the last few years.

A lot of those timber sales we got back had the roadwork already done or at least partially done. So, when you look at the mix of timber sales in 1989 as it relates to 1988 and 1987, we have fewer timber sales that we had bought back, that already had the roadwork done.

For that reason, we need to increase the road budget to coincide with the timber sales program. You cannot have one without the other. If you cut the road budget, you cannot make the timber sales.

Senator BINGAMAN. So basically, you are saying that in order to make the timber sales you have to go into a lot of areas that do not have roads that make them accessible at this point?

Mr. ROBERTSON. Yes.

Senator BINGAMAN. Your plan would contemplate that.

Let me defer to Senator Murkowski if he has some questions.

Senator MURKOWSKI. Thank you, Mr. Chairman.

With regard to the road building, this enables you to put up the sale and generate revenues for the Federal Government. Otherwise, without the road you could not conclude the sale and the Federal Government would not get the revenues from the timber sale.

Mr. ROBERTSON. That is right. There are a few areas you could do with helicopters, but that is very expensive. Roads and timber sales go together.

Senator MURKOWSKI. What is the return to the Federal Government as a consequence of the expenditure and outlay for roads as proposed? In other words, what are you going to generate in revenues as a consequence of these anticipated sales and the sales are

brought about because you have to put roads in to make them accessible?

If you did not have to put roads in, you would have to let the logger put the roads in, and that would lessen the price of the timber or the stumpage net to the Forest Service.

Mr. ROBERTSON. Our 1989 budget has $176 million for roads as it relates to the timber sale program.

Senator MURKOWSKI. You have additional costs other than putting roads in, but let us just look at roads now.

You are spending $176 million, and as a consequence of that your revenues from those anticipated timber sales is what?

Mr. ROBERTSON. When you add the other costs to put those timber sales up in addition to the roads, that would come out to $490 million.

Senator MURKOWSKI. $490 million per year costs to put up the sales.

Mr. ROBERTSON. That is right, to put up this 11.2 billion board feet.

Senator MURKOWSKI. So the roads are less than half your costs.

Mr. ROBERTSON. Yes, and our anticipated receipt from Fiscal Year 1989 is $867 million.

Senator MURKOWSKI. So you are doubling the return, in other words? You have receipts twice as much as the cost.

Is that a ratio that has been predominant in sales, say, for the last couple of decades, that you expend about half of what you generate in revenues?

Mr. ROBERTSON. I think it is about 75 percent over what we spend.

It varies by the market. I believe revenue has exceeded receipts for the last 10 to 15 years all except one or two years. When we hit the depth of the depression or recession and the bottom dropped out of the timber market in 1982, I believe there was one year where expenditures exceeded receipts.

By and large, we make money on our timber sale program in total.

Senator MURKOWSKI. So your receipts are $867 million from the sale of timber, and your costs are about $490 million.

TONGASS TIMBER SUPPLY FUND

Senator MURKOWSKI. I have one question, Chief. In the Tongass Timber Supply Fund which encompasses funding for the Tongass Timber Program, that portion of your budget proposal for the Tongass is $40 million. The entire Tongass National Forest request is $53 million.

I am curious to know what line items are paid out for the supply fund as opposed to the forest funding, and I am interested in knowing how the trust fund pays out.

Your basic budget is down from 1987 when it was $58 million to this year, which is $45 million, and now this year you are up to $53 million, but your funding for the Tongass timber supply fund is $40 million, and the previous year it was $34 million.

I assume under the new requirement you fund your budget from the appropriations and put a portion back into the Tongass timber,

which is $40 million, and then draw from that. Am I correct in my interpretation, or have I confused both of us?

Mr. ROBERTSON. Yes, it would be $40 million of the Tongass timber supply fund in 1989 coming from that source, and the balance of it would be appropriated dollars or trust fund money in other appropriations.

Senator MURKOWSKI. That is the difference between $40 million and $53 million?

Mr. ROBERTSON. Yes.

Mr. LEONARD. This budget was prepared before the Congress took the action in the continuing resolution to collapse them all into one. So this still maintains the original split.

Senator MURKOWSKI. But now reality dictates it is coming a different way from the appropriations process, but it is the same numbers?

Mr. LEONARD. The same numbers should apply.

Senator MURKOWSKI. But a different source.

What is your anticipated revenue from the Tongass from timber sales?

Mr. ROBERTSON. Probably about $1 million in 1989.

Senator MURKOWSKI. Sorry I asked the question.

The reason for that?

Mr. ROBERTSON. The sales that we will be operating on the Tongass in 1989 are largely sales that are already under contract, and they will be operated at those rates.

Now, if we looked at the increasing bids on the new sales and looked at the value of the timber we would sell on the Tongass, it is probably 10 or 20 times that.

Senator MURKOWSKI. Probably 10 or 20 times that. That is the answer I wanted first.

My friend from Ohio has come on, so I think I will drop the Alaska issue.

Senator BINGAMAN. Senator Ford.

Senator FORD. Well, I will just pick it right back up.

On the Tongass, I would like to just follow up a little bit. How much of a backlog of sold but uncut timber exists from the Tongass National Forest?

Mr. ROBERTSON. We have two long-term sales on the Tongass, fifty year contracts that we are about halfway through. We have laid out on those sales the timber that will be cut in the next five years. That is roughly 900 million to 1 billion board feet in advanced sale preparation on the long-term sales.

Then in terms of the sales to the independent purchasers on the Tongass, they harvest between 80 and 120 million board feet per year, and we have somewhere between 350 million board feet under contract to those purchasers.

Senator FORD. My figures show that you have a solid backlog of sales that are uncut, and then you are offering an additional 350 million board feet for sale with this backlog. Am I correct in that?

Mr. ROBERTSON. That is correct, but you need to understand——

Senator FORD. Why is it necessary, then, to offer this additional 350 million board feet if you have a backlog?

Mr. ROBERTSON. Remember that the backlog of timber that is sold includes five years worth of timber for the long-term sales.

Senator FORD. Is it 350 million short term?

Mr. ROBERTSON. The 350 million includes the work in layout for future years on the long-term sales plus current sales that will be sold on the short-term sales.

We expect the harvest in 1987 in Alaska was about 335 million board feet. The industry there is predicting close to 400 million board feet.

Senator FORD. Your income from that will be $1 million. Is that what you said a moment ago?

Senator MURKOWSKI. No. I think it is important, if I may, to clear up the confusion here.

Senator FORD. Well, then the whole budget is confusing.

Senator MURKOWSKI. I know, but that is nothing new around here.

Senator FORD. I know, but we are trying to clear it up. That is our responsibility.

Senator MURKOWSKI. I understand, but I would like to make a point if I may.

The $1 million is based on previous sales that have been deficient to the operator, deficient to the sawmill or pulpmill or whatever for an extended period of time.

The new sales are based on a higher stumpage and a higher market as a consequence of what is in existence now.

The operators in my state, Senator, do not have adequate timber to open up their sawmills simply because of the extraordinary lead time it takes to put up sales.

So when you look at figures that are allegedly here, you assume that timber is available, and you ask why is it not being cut, why is it surplus. But it really is not available. Sales have not been held in many cases, and I get nothing but complaints from my people as to——

Senator FORD. Well, the small operators complain a great deal about the Tongass.

Senator MURKOWSKI. Small, medium and large; all of them do.

Senator FORD. Well, I hope this was not taken from my time, Mr. Chairman.

Senator BINGAMAN. You have all the time you like.

Senator FORD. Thank you very much.

Go ahead.

Mr. LEONARD. There is a very substantial lag time. Most of the money that we will spend in preparing sales in 1989 are for sales that will be sold in 1991 and 1992. There is about a three-year lag time. The sales that we are operating on today, the volume we will operate on in 1989, is volume that was prepared and sold in 1985, 1986 and 1987. There is a long lag time.

So most of the sales that are going to be operated currently there are sales that were prepared and sold during this period of very depressed market conditions. Some of those sales have escalator provisions in them, and stumpage rates will be adjusted. Others do not.

We are projecting much higher revenues from the sales that will be sold in 1989, but those revenues will be received out two and three years beyond that.

Senator FORD. I appreciate that. I found that projections are to accommodate a budget, and when those projections accommodate a budget then everything is alright until the end of the fiscal year. When we get to the fiscal year, the projections are not worth very much.

I have made budgets before, and I have made projections on a smaller scale, but we do the same thing. Either we come out right or we do not.

Under a state's provision, if you are not going to balance the budget you have to cut it. So you do balance the budget at the end of the year. Here, you make a projection and write a budget. If it does not come out, you are just deeper in debt.

So there are a lot of projections here. I understand where we are coming from. It is one-time sales; it is $1 million. That is not all you take in this year. That is all you can put in the budget or general fund, whatever you take in. That is all the money you can count unless you project. That is the two additional years.

HOUSING STARTS

Senator FORD. So I have somewhat of a problem with this. Let me ask you a question, then, as it relates to the downward trend in construction.

How long is that projected to last in home construction?

You said just a few minutes ago that your board feet were being reduced because of the downward trend on housing starts. What is your projection on the downward trend of housing starts in the next three years?

Mr. ROBERTSON. Well, it varies, depending on who is doing the projecting. The range is from about 1.5 to 1.6 or 1.7 for 1989 and 1988.

Senator FORD. That is 1.5 million housing starts?

Mr. ROBERTSON. The U.S. League and Saving Institution projects 1.6 million in 1988. The U.S. Government projects 1.7 million. Wharton predicts 1.54 million, and the National Association of Homebuilders predicts 1.5 million.

So it really ranges from about 1.5 million to 1.7 million among the various projections.

Senator FORD. That gives you 1.6 million, and that is what you have taken; right?

Mr. ROBERTSON. We are using the U.S. Government projection.

Senator FORD. You are taking 1.7 million, which is the higher projection?

Mr. LEONARD. If I may comment on that, historically there has been a very good tie between housing starts and demand for softwood lumber.

Senator FORD. I understand that, yes.

Mr. LEONARD. Historically, about 40 percent of the softwood lumber has gone into housing. Frankly, currently that relationship is not nearly as strong as it used to be for several reasons.

One, we are being successful in exporting a substantial portion of our softwood saw timber. Our exports are truly benefiting from the devaluation of the U.S. dollar, so we are getting good expert markets. Remodeling and reconstruction of the housing that was con-

structed right after World War II is causing a substantial increase in usage.

What we are seeing is that housing starts peaked in 1985, but we cut and consumed the greatest amount of timber in the history of this country in 1986 and 1987 with declining housing starts in both of those years. It went from a peak of almost 1.9 million housing starts down to the 1.7 level and we still had record levels of consumption of softwood lumber and plywood in this country.

So our problems in trying to estimate what demand is going to be for the amount of lumber we will need in 1989, a year from now, are confused by these other factors that are affecting demand in a very substantial manner.

Senator FORD. Well, enlighten the country boy here about the agreement with Canada and what the problems are.

What is the situation with the timber coming out of Canada into the United States? Does the President's agreement with Canada affect that in any way that we are going to look at here shortly?

Mr. LEONARD. The agreement with Canada in which they put a tax on their exports of lumber into this country has had an impact on available supplies and demand in this country.

It in effect has stopped what had been a substantial increase of imports from Canada, and the market share that Canada enjoys has actually moved back just a little bit.

Senator FORD. What about the President's executive agreement? Is there anything in that that relates to timber?

Mr. LEONARD. It is my understanding that it will not affect it because the Canadians are replacing this tax that they added on their exports with a change in the way they establish stumpage rates for timber that will be cut in the provinces of Canada. So it will not be affected by this agreement.

Senator FORD. Let me just tell me why I was a little bit concerned about your three-year projections, and then I am through, Mr. Chairman.

Three years ago you asked for $45 million for the Tongass. That was three years ago. You projected then, and your projection gets you $1 million.

So I just want you to know, Mr. Chairman, that is $1 million this year, and three years ago you asked for $45 million. It is producing $1 million this year.

I will just tell you that that is a pretty good hunk of money for the return. We lost $44 million apparently, if you subtract 1 from 45, and that gives us a pretty sizable deficit.

Thank you, Mr. Chairman.

Senator BINGAMAN. Senator McClure.

Senator MCCLURE. Thank you very much, Mr. Chairman.

I think, without looking at the Tongass in particular, one of the things we have to remember is the expenditures going into pipeline. The pipeline has to fill up before it starts spilling at the other end. It is a little like an oil and gas producer that goes out and explores the field and invests some money and gets no return on that investment. Then he gets a pipeline, invests in the pipeline, and he has no return on that until production fills the pipeline and reaches consumers.

So there is a lag time. That may not explain all of it, but it certainly explains a large part of the reason why investments made do not immediately yield returns.

One of the things you mentioned, Mr. Leonard, that is intriguing, and I am unsure I can say it is any more than that except that it is significant, and that is the change of the relationship between sales and harvest volumes and housing starts.

I suspect that it may be a combination of events, one of which is we are moving back to more single family dwellings in that mix of housing starts.

We are also moving back towards larger houses. Each individual house consumes more lumber, more materials of all kinds.

There is also a very, very large renovation market that does not go into housing start figures but is a consumer of softwood lumber and hardwood lumber, as far as that is concerned.

ROUND LOG EXPORTS

Senator McCLURE. There is another one that is troubling to a great many of us, and that is the record exports. We are not troubled by exports of softwood lumber, but there is a tremendous volume of round log export. Is that correct?

Mr. LEONARD. That is correct, although softwood lumber exports are at record levels. Fortunately, they are finally beginning to challenge the levels of log exports.

Senator McCLURE. But they are playing more for logs than they are for lumber.

Mr. LEONARD. They certainly are.

Senator McCLURE. I do not want that to pass too quickly, because the reason they pay more for logs than they do for lumber is it protects their own domestic industry.

Mr. LEONARD. Yes, sir.

Senator McCLURE. So while, indeed, the total volumes being consumed in foreign markets is going up, it is not going up nearly as high and as rapidly as their demand for product. If they were going to buy the lumber from us instead of round logs, you would see an awful lot more increase then the export of dimension lumber.

Mr. LEONARD. You certainly would.

Senator McCLURE. As a matter of fact, they are paying right now, I think, almost twice as much for logs as they are for lumber, which indicates a premium, the degree at which they are willing to pay in order to protect the domestic sawmill industry.

That is a matter of a great deal of concern to many of us, just how far we ought to go in permitting that to happen. That is also something that has a hidden effect upon Forest Service Projections, because much of that export that comes from the western United States into the export markets comes from non-Federal sources.

Mr. LEONARD. All of it.

Senator McCLURE. That results in an increased demand in the future on the Federal resource for the domestic market.

Mr. LEONARD. That is correct. It particularly has affected the revenues in Alaska, because the companies manufacturing lumber in Alaska must compete with the round log export in that area, and it resulted in a severe depression of prices.

Senator MURKOWSKI. From private lands.

Mr. LEONARD. Yes, from private lands.

Senator MCCLURE. Refresh my memory. I think your projection of housing starts last year was very near the one you are estimating this year. Is that correct?

Mr. LEONARD. I think it is.

Senator MCCLURE. Despite the fact that your projection of housing starts was about the same, your projection of lumber consumption and fiber consumption was below the actually-experienced harvest levels.

Mr. LEONARD. By a very substantial amount.

Senator MCCLURE. You are again this year projecting a relative—well, let me put it this way. The projections on demand for lumber and fiber products is nearer last year's projections than they are this year's experience.

Mr. LEONARD. That is correct.

Senator MCCLURE. So, if anything, you are underestimating that phenomenon that has caused an increased consumption relative to the number of housing starts.

So if next year's pattern follows this year's pattern and housing starts are about what you predict, then consumption would be higher than you predict.

Mr. LEONARD. I think that is accurate, yes, sir.

Mr. ROBERTSON. There was a 10 percent reduction in housing starts last year. 1986 was 1.8. In 1987 it was 1.6. Yet, we set an all-time record of timber harvest on the national forest in spite of a 10 percent reduction in housing starts.

Senator MCCLURE. I just wanted to emphasize again that that phenomenon is perhaps understated in your sales and consumption figures, if not your housing start figures, and it again is exacerbated by the export of round logs from non-Federal lands which will increase future demand upon the Federal lands.

I can foresee a shortage occurring and another runup in prices, as we had the problem once before.

Your recommendation for timber sales administration and management funding is higher than either Fiscal Year 1987 or 1988 levels even though your proposed timber sales level is lower.

Is this because your 1989 timber sales program has a higher portion of new sales rather than resales?

Mr. LEONARD. That is correct. A large share of the sale administration projected for Fiscal Year 1988 was to be funded out of the salvage sale fund because of the fires.

Senator MCCLURE. You also had some resales out of the timber contract adjustment.

Mr. LEONARD. About 2 billion feet in 1988, and that will drop down to about 1 billion feet in 1989.

Senator MCCLURE. It will be about half as much?

Mr. LEONARD. Just about half as much. The big shift in the sale administration portion reflects the switch in funding from the salvage sale fund back to our direct appropriations.

Senator MCCLURE. Your recommendation for forest road program funding is higher than the Fiscal Year 1988 level but lower than 1987.

Is this related to the adjustments made in the 1988 program last year as a consequence of the fire rehab situation?

Mr. LEONARD. Both the fires and the level of resales, most of which had the road built in advance.

Senator MCCLURE. Your 1987 annual report shows that timber volume under contract is continuing to drop. We heard testimony from industry witnesses last year that the amount of volume under contract was very low in some areas.

Notwithstanding the changes you have made to the timber sales contract, are we at risk of creating another problem as a result of desperation bidding?

Mr. LEONARD. Well, looked at on a national basis, we have just under two years of timber under contract, two years of volume sufficient to sustain two years of cutting. That is just about the minimum level we should have when you recognize that the first year that the sale is under contract usually involves a year of road construction and preparatory activity and then the second year is the year in which the volume is actually logged.

If you begin to go below two years, then the ability of a firm to construct roads and to carry on its activities in a well-planned way diminishes.

The other problem, of course, is that that volume under contract is not equally distributed among all firms. Some are more successful bidders than others, so if you have an average of two years, some firms have less than one year under contract.

Senator MCCLURE. What does that leave them to do? They have to get a contract.

Mr. LEONARD. They have to buy a sale.

Senator MCCLURE. They have to buy a sale no matter what the price is; is that correct?

Mr. LEONARD. That is correct.

Senator MCCLURE. Is that not precisely what contributed to the runup of contract prices we had a few years ago?

Mr. LEONARD. No. I think there was some of that concern because of worry about wilderness and other things that would constrain supply.

But during that period our sales were actually running higher than harvest levels, and it was more a projection of increasing prices and wanting to get volume under contract now for future markets than—we had record volumes under contract during that period.

Senator MCCLURE. You had record volumes under contract, but, again, unevennesses.

Mr. LEONARD. There was unevenness. There always will be.

Senator MCCLURE. You mentioned something a moment ago. You know, there is body language and emphasis in sentences, and you said "just about minimum", and the emphasis was on "just about". I am afraid what was lost in that may have been the word "minimum".

If we are at the lower end of the acceptable level, then you have people well below the acceptable level, and you have on the average everybody at the minimal levels.

I am a little concerned when you look at that, when we talk about two years under contract we are measuring that against pre-

dicted volumes. We have just seen a record year of volumes, which means consumption is more rapid than we had expected and still anticipating.

If that trend continues, then we are below minimum in harvest volumes under contract. I think we are getting ourselves back into an artificial shortage.

It is exacerbated by one other matter that is very important for us to understand, and that is the difficulty you are having moving new sales in many of the areas where we have the roadless area/wilderness controversies following the passage of wilderness legislation in almost every state except mine, where you move into roadless areas but then you run into delays in controversies.

If you have a bigger backlog under contract, you have more time to work out the controversies. Conversely, if you have minimum or below minimum levels under contract, you do not have time to work out controversies.

Is that where you are, Chief, really?

Mr. ROBERTSON. Yes. That is a good description of the situation.

To illustrate the magnitude of that problem, in the last 10 days in Region 6 we have had over 200 appeals relating to resale of bought-out timber.

Senator MCCLURE. That is just the resale volume?

Mr. ROBERTSON. Just the resale volume.

Senator MCCLURE. Now, we anticipate that as a result of the very abnormal fire season, there will be a lot of salvage sales. A lot of the salvage sales are in areas where we do not have much experience with respect to appeal volume.

Do you see any pattern emerging there?

Mr. LEONARD. On one sale in region 6, an existing sale that was affected by the fire, we proposed to modify the existing sale to include the firekill volume along with the volume that was already part of the sale. That modification was appealed.

Senator MCCLURE. I am asking you to speculate a little bit. Is that the exception, or is that going to be the rule?

Mr. LEONARD. I think as we go into the more controversial roadless areas, we can anticipate both appeals and court challenges.

Senator MCCLURE. In March of 1988 you will be providing us with your analysis of salvage and rehabilitation needs as a result of the 1987 fire season.

Would you include in that report an assessment of your capability to increase the Fiscal Year 1989 timber sales program in response to current market demand?

Mr. ROBERTSON. Yes, we will do that.

I might add, Senator McClure, there was 1.3 billion board feet of our 1988 timber sale that was fire salvage volume. At the time when we put together the 1988 budget, working with the Congress, we knew we had 1.3 billion. We did not know how much more.

Our report that will come up later this month will probably show another 600 to 700 million board feet of timber that can be salvaged, that is not included in this budget. We will have those figures finalized by the end of this month.

Senator MCCLURE. Thank you.

Recent figures show that every 100 million feet of national forest timber sold returns a net profit of $500,000 to treasury.

If that is true, then why are you not at least requesting a program that will replace the actual harvest level?

Mr. ROBERTSON. I think the primary factor there is trying to hold down the budget and because there is this delay between expenditure of funds and getting it back in receipts a year or two out.

Senator MCCLURE. So we will reduce the deficit this year by failing to make the investment in future year activities and increase the deficit in future years as a result?

Mr. ROBERTSON. That happens because of this time lag, yes.

Senator MCCLURE. And because of OMB?

No, I do not want you to answer that question.

Mr. ROBERTSON. It goes back to the housing projections which we have talked about. There are other factors in new housing starts.

Senator MCCLURE. Thank you very much for your testimony. I look forward to that report and continuing to work with you as we work through some rather tough problems.

I again want to make the comment that I think must be made, that budgetary stringency cheats good natural resource management. It always has. When there is a downturn, we squeeze natural resource management because it is long term. We see short-term gain and cheat long-term management.

That, I submit, is very bad for this country and for its resources and for the future of our economy.

I commend you for trying to resist that trend. I recognize the difficulty you have. So when I make that comment, I am not pointing my finger at you. I know you would do better if you could.

Thank you very much

Mr. ROBERTSON. Thank you.

Senator WIRTH [presiding]. Senator Domenici.

FIREFIGHTER PAY

Senator DOMENICI. Thank you, Mr. Chairman. I will be brief.

Chief, we will submit some written statements or written requests that are very specific to New Mexico. I have one of a more general nature that does apply to us in a mild way.

That is the firefighter's bill that we passed last year as part of appropriations, to reimburse the firefighters for overtime. We appropriated the money. I have maybe 200 in my state, but we are talking about many in the western states.

What is the status of issuing the checks to those firefighters as required by Congressional enactment for overtime that they earned last year and did not get under some rules Congress found to be rather unreasonable?

Mr. ROBERTSON. I am told that all those checks are being processed now.

Senator DOMENICI. We are not yet to the point where we can say the check is in the mail?

Mr. ROBERTSON. Mid-March.

Senator DOMENICI. In mid-March they will get their checks?

Senator MCCLURE. Of 1988?

Mr. ROBERTSON. That is the date, yes.

Senator DOMENICI. You know, you did not get the part of mine when things are not happening we tell them the check is in the

mail. We are not yet even to that point, but you are telling us mid-March the processing should be finished and they ought to be getting their checks by then?

Mr. ROBERTSON. Yes.

Senator DOMENICI. Will they get one lump sum for all of it? You are not going to spread that out, are you?

Mr. ROBERTSON. Oh, no. That will be one check for all of the back pay.

Senator DOMENICI. Thank you very much.

ROUNDS ESTATE

Senator DOMENICI. With reference to a matter that is very important to New Mexicans and people in the city of Albuquerque and the county of Bernalillo, I want to leave with you a letter from the entire New Mexico delegation, Senators and House members, asking that you consider supporting a joint acquisition of what is known as the Rounds Estate in the foothills of the Sandia Mountains.

The City of Albuquerque under its open space program wants to pay half the purchase price of this 325 acre tract. They have $4.25 million set aside as their half contribution.

This 325 acre tract was owned by the Forest Service. It is adjacent to the wilderness and is a spectacular add-on to that open space, and the viewing from it is spectacular.

We traded in order to get a much larger piece of property, and this is now in private ownership. They are willing to sell it at less than appraised value, and we have a unique situation in that a city is willing to pay half.

We know that money is tight in the acquisition fund, but when somebody will pay half the price and the owner is selling it for less than market value, I think we ought to consider it.

So I am just going to give you that letter and ask if you would please review it and respond to the New Mexico delegation as to how you might be able to do it or what we might do here to help you if you support it.

If you would do that for us, we would greatly appreciate it.

Mr. ROBERTSON. We will take a look at that.

Senator DOMENICI. Mr. Chairman, I am going to submit four or five questions for the record. I need no further time. I thank you.

Senator WIRTH. Thank you very much, Senator Domenici.

TONGASS-LONG TERM CONTRACTS

Senator WIRTH. Let me, if I might, turn back for a minute to the Tongass. It is my understanding that in this budget you have requested $40 million for the Tongass; is that right?

Mr. LEONARD. A total of $53 million.

Senator WIRTH. And $40 million for the timber supply fund?

Mr. ROBERTSON. Yes.

Senator WIRTH. What was the return this last year from the Tongass?

Mr. LEONARD. Approximately $1 million plus the construction of about $2.5 million worth of road which is a permanent investment on the land.

Senator WIRTH. Can you cite again what the justification is if there is a $1 million for spending $40 million in the Tongass?

Mr. ROBERTSON. Let me take a crack at that. There is a lot of history in Alaska, and in an effort to promote economic development and to provide a stable economy back in the 1950s, we let two long-term 50-year contracts.

As part of letting those contracts, the timber purchaser had to make a big up-front investment in constructing a paper pulp plant. So we have two pulp plants, one in Sitka and one in Ketchikan.

So we have long-term, 50-year contracts, which are about 30 years old now, where we have to make the timber available to run those pulp plants.

The Federal Government is not in the habit of going around breaking long-term contracts.

Senator WIRTH. The only way of meeting that long-term contract is to spend $40 million of the taxpayers? How long is the contract?

Mr. ROBERTSON. There is about 300 million board feet of timber a year for those two long-term contracts.

Senator WIRTH. Is that the only way of meeting it, is to spend this money, the $40 million in this year's budget? This is the only way of meeting that contract?

Mr. ROBERTSON. Yes; the only way I know of.

Now, another key point here is about half of the timber in Alaska is good for pulp; the other half is good for saw timber. So there are also several sawmills clustered around those two pulpmills to utilize the saw timber.

Senator WIRTH. What is the size of these contracts in dollars?

Mr. LEONARD. There is no fixed price. One contract was for about 7 billion board feet; the other was for about 5 billion board feet.

Senator WIRTH. There is no dollar amount equivalent for the contracts?

Mr. LEONARD. No. The prices are set by five-year periods, depending on the market.

Senator WIRTH. How much of that volume of timber is remaining?

Mr. LEONARD. We are about three-fifths of the way through those contracts.

Senator WIRTH. You are about three-fifths of the way through. How many board feet are remaining in the contract?

Mr. LEONARD. You could say two-fifths of the volume.

Senator WIRTH. How many board feet is that?

Mr. LEONARD. That would be about roughly 5 billion feet in the two remaining contracts.

I think it is important to understand the economics of operating in Alaska. When we went to Alaska with these two long-term sales and with an independent sale program for other purchasers, all of the land in Alaska was available for harvesting, all of the lands on the Tongass National Forest.

Subsequent to entering into the contracts, major portions of the Tongass were made available for selection by the State of Alaska and by the Alaskan natives, and they made some very astute selections in terms of the quality of timber that they selected.

Then the natives went into the business of exporting their timber in round log form. As we established here a few minutes

ago, there is a premium value for round logs, and they were able to capture a large share of the market.

In addition, the Congress established a number of large wilderness areas in Alaska.

The net effect of these changes was that much of the timber which was originally intended to be operated under these contracts has been set aside.

TONGASS RECEIPTS

Senator WIRTH. Let us talk about the numbers, though. I understand all this. I have heard most of the argument. For the purposes this morning, I am just interested in what happens to taxpayer dollars.

Earlier you had suggested that the Tongass would turn a profit in three years; is that right?

Mr. ROBERTSON. No.

Senator WIRTH. What would the return be in three years? You had said $10 or $20 million?

Mr. LEONARD. 10 or 20 times.

Senator WIRTH. 10 or 20 times a million would be a return of $10 or $20 million; is that right?

Mr. LEONARD. Right.

Senator WIRTH. The expenditure would continue to be $40 million a year; is that right?

Mr. LEONARD. Yes.

Senator WIRTH. So you would be losing $2 for every $1 maximum; is that right?

Mr. LEONARD. That is probably right.

Senator WIRTH. Maximum would be a loss of two to one and maybe four to one; right?

Mr. LEONARD. The timber we sold this year——

Senator WIRTH. That is $40 million, and 10 times would be $10 million, which is a loss of four to one; two times is $20 million, which is a loss of two to one.

Is there anything in the law that requires you to turn a profit? Is there anyplace else in the law?

Mr. ROBERTSON. No.

Senator WIRTH. There is only a reference that you have to take into account some kind of economic suitability; is that right? Are you required in the law to do that?

Mr. ROBERTSON. Not on the Tongass.

Senator WIRTH. Not on the Tongass? There is no reference to any economic suitability on the Tongass, either?

Mr. ROBERTSON. No. The National Forest Management Act has that economic suitability test, but the Tongass is exempt from that.

Senator WIRTH. Should the law be changed, do you think, to make economic suitability a point of reference for the Tongass, just like it is for other forests?

Mr. LEONARD. May I comment there? There is no economic suitability test anywhere in the United States. There is a requirement that we consider the suitability of land for timber production and that in making a determination whether it is suitable we consider economics.

Senator WIRTH. That is what I was saying. If you were considering economics, should you be required to consider economics for other national forests? Should the law be changed to require a consideration of economics for the Tongass, too?

Let me ask you. Yes or no; do you think it should or should not be?

Mr. LEONARD. No, sir.

Senator WIRTH. You do not? OK, do you have any views on that? There should be no consideration of economic suitability?

If we are going to spend $40 million worth of taxpayers' money and get back maybe $.25 or $.50 on the dollar maximum, there should be no consideration of economic suitability?

Mr. ROBERTSON. No. I would agree that we should not have any consideration—we should have consideration of economics, but there are some other very, very important factors in Alaska.

Senator WIRTH. Which you would exclude in the law from any reference to economic suitability whatsoever, as I understand what your previous statement was.

Mr. ROBERTSON. It is exempt from section 6K.

Senator WIRTH. Should some considerations of economic suitability be built into a reference to the Tongass as it is others? That was my question, and your answer was no.

Mr. ROBERTSON. My answer would be no. Congress made that decision when the wilderness areas were set aside.

Senator WIRTH. I know it made that decision before, but what Congress does from time to time is change the law, right, or make the law more uniformly relevant, which we have done by making the Tongass this year subject to annual appropriation rather than having automatic appropriation. I am sure you would have opposed that as well.

I am just asking you if, in fact, there should be some test of economic suitability in the Tongass, and your answer is no. I would think that would be a difficult thing to justify to the taxpayer.

Let me ask you a final question. Now you are asked to compete, your $40 million has to compete for the Tongass against every other request for money in the Forest Service. Elsewhere in the Forest Service, according to your numbers, the timber sale program is receiving about $2 for every dollar invested, according to your own numbers.

So you are asking for $40 million for a program that is not winning two to one but is losing, at best, two to one and by your own testimony might be as much as four to one, and the figures would suggest it is 40 to one.

How do you justify putting money into the Tongass to lose a lot of money when there are so many other needs in the Forest Service for trail maintenance and for management of water resources and management of other timber resources and so on?

I would have difficulty going out to my constituency and justifying to them closing down a lot of trails or not repairing trails and closing down campgrounds and losing an enormous amount of money in Alaska.

How does one go home and explain that to the people at a time when we have this very large deficit which the President tells us we ought to be concerned about?

Mr. LEONARD. Let me take a crack at it.

Part of it is that we believe, and we believe we have the data to support this, that if you look at the total economic impact of those sales, the economic activity they generate in Alaska, and in the case of Alaska the economic activity that is generated down in Seattle because that is where a lot of the support for those areas comes from, including the taxes generated from the wages that are made in those mills, you do in fact have a positive return from those sales.

Senator WIRTH. If you follow that same reasoning for the other timber sales, then the return for the other timber sales would be much better than two to one, and your ratios would be just as much out of whack, if not more so.

Mr. LEONARD. That is correct.

But first, we do think there is a positive value to those sales.

Senator WIRTH. But, again, in terms of relative balances, if you are going to use that kind of economic analysis where you get all of those other spinoffs and you are trying to add them on to the return that the Tongass brings in, you have to do the same thing for every other forests.

If you do that for the other forests, that means the returns for the Tongass remain very low, do they not?

Mr. LEONARD. But in addition to that factor, making a judgment that there is a positive return, we look at where we have communities and in this case a whole section of the state which is dependent upon the economic activity that is generated by the revenue from that timber sale.

In this case you have a positive return, and we can support that economic activity. If we remove that, then we are going to take the jobs that are associated with that and the total economic activity in that community and move that out.

Now, maybe there needs to be some judgment in the long term as to whether or not we continue to provide that kind of a stimulus to the economy.

But it is difficult to justify taking a community that is dependent upon the supply of timber and simply jerk that out from under them.

Senator WIRTH. How many people are in these communities?

Mr. LEONARD. There are about 3,000 people in Alaska who are directly dependent upon the timber industry there in the Tongass. That is jobs. When you look at the multiplier effect out through the economy, it is a very large segment of the economy of southeast Alaska.

Senator WIRTH. Are there any other questions for this panel?

EXPORT MARKET

Senator FORD. I have one more question. It does not have to get into the Tongass at all.

Senator WIRTH. I have just been informed they just started the vote on final passage on the polygraph bill.

Senator FORD. I will get my question in very quick, then.

What is your estimate on exports, both private and from Federal lands?

Federal lands timber has to be treated somewhat different than private before it can be exported, but what is your projected export picture?

If I listen to my friends that know far more about this than I will ever learn, they indicate that the export places pressure on Federal lands. Now, I would like to see if my information and yours coincide.

Mr. LEONARD. There are about 3 billion board feet per year.

Senator FORD. I know, but what is your projection? Is it going to increase or decrease?

Mr. LEONARD. The trend is upward.

Senator FORD. Your three-year projection is up?

Mr. LEONARD. Yes. It is benefiting from the favorable exchange rate.

Senator FORD. Now, what portion is that from private and which is from Federal?

Mr. LEONARD. For log export it is entirely from private land or from State-owned land.

Senator FORD. How much are from State lands, then? What you are projecting is all from private or State lands?

Mr. LEONARD. Yes, because Federal timber is precluded from being exported in the round.

Senator FORD. I know. I understand that, but my projection is that your export market in China and other places is beginning to get very soft.

Now, if that is getting very soft, that means that you are not going to have the pressure on Federal lands. That is what I am trying to get to. It looks like you would be looking into that, as Senator McClure gives you an awful good point.

Mr. LEONARD. The biggest demand for exports from the Pacific Rim is to Japan. The market there is extremely strong.

China is a significant player, but because of their foreign currency, their available cash, they are in and out of the market.

Korea is a substantial player now.

But the biggest market both for the round logs and for the unfinished lumber is to Japan, and I know of no one who is projecting a downturn in that market in the near future.

Senator FORD. Thank you.

Senator MCCLURE. Part of that, the finished lumber component, can come from the public land.

Mr. LEONARD. That is right.

Senator FORD. If it is finished lumber, you can send that from public lands.

Mr. LEONARD. The data on what portion of finished lumber comes from public versus private land is very loose, but we do know that a number of purchases of our timber is substantially involved in the export market for finished lumber.

ECONOMIC RETURNS FROM FOREST SERVICE PROGRAMS

Senator MCCLURE. Senator Wirth has asked you a series of questions concerning whether it is rational for us to conduct a policy that is a net loser to the country in terms of direct relationship, not indirect economic benefit.

Is it correct to say there are a number of activities on the public lands and on the national forests that do not generate as much in revenue as we put out in expense, such as management of wilderness areas, recreation activities, trail building, outfitters and guides operations, things of that nature which generate some return but the investment of public monies is very large?

Mr. ROBERTSON. The only programs we make money on are minerals and timber.

Senator MCCLURE. All the rest of the activities out there are net losers?

Mr. ROBERTSON. Yes, if you just look at the cash flow to the Federal Government; but we are in the business of stimulating economic activity, and a lot of economic activity around the country is based on what happens on the national forest. We worry about that a great deal.

Senator MCCLURE. I am not trying to get into an argument with my friend from Colorado. There will be plenty of time for that later, I suspect.

I did, however, want to point out that just net economic activity, net in the terms of direct expenditure and direct return, is not the sole criteria for Forest Service activities.

I support wilderness designation. That is a loser economically. I support trail building and recreational uses in the national forest. Some of the best recreational opportunities in the United States occur on national forest lands, far more there than in the national parks in just gross numbers of people.

That is a net cost to us no matter how much we recover in direct repayment through entrance fees and users fees and things of that nature. We still make those investments, however, because we believe they are good investments in the uses of the public lands.

Thank you, Mr. Chairman.

Senator WIRTH. Just to comment on that, I agree that those are very good uses of investment in public land, and I suppose what we are now arguing is that subsidizing the export of timber to the Japanese is a good use of investment of public dollars in public lands, too. That is essentially what we are doing.

If we provide American hikers the ability to hike free on trails, we are giving the Japanese incredibly subsidized timbers. That, it seems to me, makes absolutely no economic sense at all, and I think it is enormously difficult to say to the American taxpayer that what we are going to do is subsidize these exports of timbers to the Japanese from the Tongass while we are closing down or not repairing trails for hikers in the United States.

What sense does that make? It makes no sense to me. Maybe I am slow economically in figuring that out. We are going to catch on in this country to what is going on in terms of this enormous subsidy going to the Pacific in terms of timber in this sale and in terms of an enormous expenditure on defense as well.

Senator Murkowski.

Senator MURKOWSKI. If I may respond very, very briefly, I think your interest is well known, and I understand it. I think, however, maintaining objectivity is important.

These were contracts made, and to initiate an economic readjustment is going to involve, obviously, the exposure to litigation of the

Federal Government. What the consequences of that are and the costs will be determined if, indeed, it goes that route by the courts. That is a fact.

The other consideration is this product does not go to Japan for consumption exclusively. Some of it goes to Japan. A lot of it is utilized in the United States. Some of it goes to India. Some of it goes to China. It is in a world market, just as many things we produce in this country are in a world market.

Senator WIRTH. Do we know how much does go to Japan?

Senator MURKOWSKI. Absolutely. There are figures that can be provided by the Forest Service. There are different portions of pulp that go; there are different portions of round logs that go. Some goes to Korea. Piano stock goes to the United States. For the record, we should provide that for you, but we have a vote on and I do not want to take too much of the time.

The reality is that the communities of Ketchikan, Sitka, Wrangell and Haines have been built on an economy of timber and these timber contracts. Now, if they are renegotiated to a point where the economics no longer support the viability of the mills, they will be shut down. This is just a hard, cold fact.

When you consider a loss to the Federal Government which is justifiable, you ought to consider a loss to the investor. It is a matter of record that these two pulp mills for the last decade have lost money until this year. This year they show a profit. Now, there is going to be a higher return to the Federal Government as a consequence of stumpage.

When the Senator from Colorado refers to subsidies he should look at his own state. 25 Colorado ski areas operate on national forest land under 30 to 40-year leases. 53,000 acres of prime forest land are under permit in Colorado. The return is 4.5 million. That is about 2 percent of the gross receipts. It should be substantially more than that. This is a matter under current investigation by the GAO.

When you look at objectivity, we have to recognize that the timber in southeastern Alaska will show a return. The cost to the Forest Service of putting up timber sales is extraordinarily high because costs are high. You have solid rock. You have to blast to build roads. If you do not do that for them, then the contractor is going to bid less and he is going to have to put those in because you have to get the timber out.

The Senator from Colorado does not take into consideration that 1.3 million acres of prime timber land were put in wilderness. As a consequence of that, it has made less timber available than was originally going to be available for areas.

We have 5.4 million acres of wilderness in the Tongass. We have 1.65 million acres open for sale. So you have to keep it in balance. I know that is what the Senator from Colorado wants to do as well.

Senator WIRTH. We will be right back.

[A brief recess was taken.]

PUBLIC DEMAND FOR RECREATION

Senator WIRTH. If the committee would come to order once again.

Gentlemen, thank you very much for your patience while we answered that vote.

Let me, if I might, just turn your attention briefly in the few minutes remaining to the issue of recreation.

I am sorry, Senator Weicker, go ahead.

Senator WEICKER. No questions.

Senator WIRTH. Can you give us a general description of what has happened in terms of overall public demand for recreation in the national forest?

Mr. ROBERTSON. It is increasing. In 1987 we had a 5 percent increase in use over 1986.

Senator WIRTH. Where is 1986? What has the trend been in the last decade?

Mr. ROBERTSON. Well, it was fairly stable from about the early 1980s through about 1985, I believe.

Senator WIRTH. What explains that jump up?

Mr. ROBERTSON. You mean the jump up in 1987?

Senator WIRTH. Yes.

Mr. ROBERTSON. Well, I think it is just fairly good economic times. There was an all-time record in the tourism business last year. People are just recreating more.

Senator WIRTH. So the recreation demand on the national forest is up, and you were suggesting earlier that timber demand is down, the timber market is softening; is that correct?

Mr. ROBERTSON. No, no. We had an all-time record last year of timber harvested on the national forest as well. It was a record year.

Senator WIRTH. In answer to a question by Senator Ford earlier about softening timber demand, maybe I misunderstood that.

Mr. ROBERTSON. He was talking about the export market, and we also set a record in export of wood products last year. I think there was a point about China maybe softening a little bit.

Senator WIRTH. Can you tell us what your recreation initiative is?

Mr. ROBERTSON. Yes. You know, we have probably conducted the most comprehensive public involvement effort ever attempted by a Federal agency in our development of land management plans throughout the United States. I think there is one loud and clear message that is coming through on that; that is, outdoor recreation and fish and wildlife are important to the American people, and the Forest Service ought to be doing more in these areas.

Senator WIRTH. So you are requesting more in this budget, then, for recreation?

Mr. ROBERTSON. It is significantly more than 1987 but not quite as much as 1988.

Senator WIRTH. So you are requesting less money for it, in fact, even though you have conducted this survey and this effort and are saying that there is an increased effort? Is that right?

Mr. ROBERTSON. We are requesting a lot more money than we requested last year. In the meantime, while we were putting this budget together, Congress was working on the 1988 budget, and Congress added a significant amount in 1988 for fish and wildlife and outdoor recreation.

Senator WIRTH. So we have less money.

Can you tell me how much money there is in the budget for trail construction and trail maintenance?

Mr. ROBERTSON. For trail maintenance, there is $15.6 million, and in trail construction there is $13 million.

Senator WIRTH. How much of that is to come from fees?

Mr. ROBERTSON. Well, this budget proposes to take all of our recreation fees and put the funds into construction of trails and recreation.

Senator WIRTH. Has that legislation become law?

Mr. ROBERTSON. That will take a legislative change to just shift existing receipts around to this.

Senator WIRTH. It has not become law?

Mr. ROBERTSON. No.

Senator WIRTH. What happens if that does not become law? What happens then to trail construction and maintenance?

Mr. ROBERTSON. It will either have to become law or, as happened by Congress last year, we had a similar proposal and Congress just added it to our appropriation without changing the fee legislation.

Senator WIRTH. That is all of the questions I had for the record.

Also, Senator Murkowski is not here. I was hoping he would be, but just for the record on the question of how much is exported, your own statement, as I understand it, coming from you about the Tongass National Forest Program states, "Today, about 50 to 65 percent of the pulp and over 90 percent of the lumber produced from the Tongass National Forest is exported to the Pacific Rim, primarily Japan."

I think that is consistent with what you were saying, Senator Ford. I guess, for the record, that is your statement as well from the Forest Service.

Mr. LEONARD. That is accurate for the Tongass. We were flip-flopping back and forth between the total exports from the country and from the Tongass.

Senator WIRTH. So a great percentage of it from the Tongass is exported.

Mr. LEONARD. Virtually all of it goes out of Alaska. There is very little——

Senator WIRTH. That is, exported to the Pacific Rim, primarily Japan. We realize it goes out of Alaska, but to be absolutely accurate about it, it is the Pacific Rim and Japan; right?

Mr. LEONARD. That is correct.

Mr. ROBERTSON. The bulk of it.

Senator WIRTH. Any other questions for this panel?

[No response.]

Senator WIRTH. Gentlemen, we thank you very much for being with us. We appreciate your testimony, and we look forward to working with you.

Mr. ROBERTSON. Thank you, Mr. Chairman.

Senator WIRTH. Our next witness this morning is the Honorable Martha Hesse, Chairman of the Federal Energy Regulatory Commission.

Ms. Hesse, thank you very much for being here. I am sure you are familiar with the rules of the committee. We will include your

statement in full in the record and leave the record open for further questions which may arise from members of the committee.

I would ask you to summarize your statement in whatever way you think would be most helpful to the committee before we go to questions.

Thank you very much for being here.

STATEMENT OF HON. MARTHA O. HESSE, CHAIRMAN, FEDERAL ENERGY REGULATORY COMMISSION

Ms. HESSE. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, thank you for the opportunity to present the proposed Fiscal Year 1989 budget for the Federal Energy Regulatory Commission. Beginning this fiscal year, the Commission is recovering its entire budget through annual charges and fees paid by the industries we regulate.

As a result, I am pleased to report that the Commission is now, consistent with the express desire of both the President and the Congress to better control expenditures, a totally self-supporting agency.

Within this budgetary framework, our proposed 1989 budget, while $6.8 million more than that approved by Congress for the current fiscal year, will not cost the U.S. Treasury and the American taxpayer any additional funds.

While keeping within those budget constraints, we are improving our performance. While I know that many of you are familiar with our activities, I would like to briefly outline the significant progress we have made which we expect to continue this year on the substance of our mission.

I believe that enhancing competition can best protect the consumer from unduly high prices and benefit the economy as a whole. Thus, the thrust of the Commission's policy decisions has been to loosen regulatory bonds that are unnecessarily tight or not necessary at all in order to encourage competition in the natural gas, oil and electric markets.

Hand in hand with this substantive progress, I am acting to modernize the Commission's administrative operations. This modernization will both facilitate internal processes and provide the public greater access to information on our activities. My prepared statement details, of course, the progress on these points.

In both the natural gas and electric power arenas, we seek to create a more flexible regulatory framework that offers a wider array of options to regulated entities so that they can better serve their customers.

On the gas side, we approach Fiscal Year 1989 with the belief that a significant number of the many difficult problems we faced in the past are well on the way to being resolved.

For instance, we have made great strides in opening up the Nation's natural gas pipeline system. This represents significant progress but not enough. The Commission has recently begun to use its conditioning powers to encourage more pipelines to accept so-called blanket certificates. Our commitment to achieving a national open access transportation system remains strong.

In addition, during the past year the Commission addressed directly the take-or-pay obstacle to market flexibility. The Commission's Order 500 put in place take-or-pay solutions in the form of a passthrough mechanism, crediting procedures, and a gas inventory charge.

In response, an increasing number of pipeline and producers are reaching permanent and global settlements of take or pay and restructuring of gas supply arrangements. Continued implementation of Order 500, both its transportation and its take-or-pay provisions, is my highest priority for 1988.

Other priorities include significant progress on new capacity proposals. Demand for gas is growing, particularly in the northeast. Reviewing the numerous filings for expanded capacity present the Commission with one of the largest certificate processing case loads in its history.

In addition, a decision on applications for interstate service into California may also be possible by the end of this year.

Finally, we are examining innovative rate design options to deal with capacity bottlenecks. We are looking at auctioning, and I have also asked the Commission to consider capacity brokering. As demand for gas increases, we can ill afford to have reserved but idle firm capacity on our Nation's pipelines.

The electric power industry is also undergoing dramatic change. To respond to the forces of change already under way in the industry, the Commission is developing a comprehensive framework for more flexible regulation.

Three rulemakings are currently before the Commission. Two of the rulemakings would address how to determine avoided cost rates that utilities must pay to qualifying facilities under PURPA.

The first rulemaking would provide additional guidance to states and nonregulated utilities that decide to administratively determine avoided cost rates.

The rulemaking would offer states and nonregulated utilities the option of using competitive bidding as an alternative means of pricing QF power.

The third proposed rulemaking concerns streamlined rate and nonrate regulation under the Federal Power Act for certain non-QF independent power producers.

The Commission has also acted on a number of innovative proposals by utilities for the flexible pricing of generation and transmission. Our challenge in the future is to try to provide leadership in anticipating the need for more flexible regulation.

Finally, I want to touch on some of our administrative innovations that we have made at the Commission during the past year.

An improved case tracking system better identifies cases that are delayed and those that may be appropriate for generic resolution.

Wider use of the newest computer technology will speed both internal processing and data collection and dissemination of information.

An electronic bulletin board will become operational next month, providing the public with on-line access to all Commission issuances and filings.

As a result of these and other uses of modern technology and management tools, we will be able to process more efficiently the thousands and thousands of filings that we receive each year.

At the end of Fiscal Year 1987, the number of pending cases, the backlog if you will, was 20 percent less than at the end of Fiscal Year 1986. The Commission ended the first quarter of 1988 with 9 percent fewer cases than at the end of the first quarter of Fiscal Year 1987.

In conclusion, although I am pleased with the strides we made during the past year, the coming year brings a whole new set of problems and challenges and opportunities, and with the continued support of Congress the Commission will be able to respond to the challenges and best serve the public interest.

Thank you.

[The prepared statement of Ms. Hesse follows:]

STATEMENT OF

CHAIRMAN MARTHA O. HESSE

FEDERAL ENERGY REGULATORY COMMISSION

FY 1989 BUDGET OVERSIGHT HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

MARCH 3, 1988

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I appreciate the opportunity to appear before you to present the FY 1989 budget request for the Federal Energy Regulatory Commission (FERC).

BUDGET OVERVIEW

As a result of the new authority approved by Congress in the Omnibus Budget Reconciliation Act of 1986 and implemented by FERC through rulemaking, the Commission is now recovering its entire budget through annual charges and fees. Thus, while our FY 1989 budget request of $106.8 million is $6.8 million more in budget authority than approved by Congress for this year, the net cost to the Treasury and to the taxpayer will be zero.

Also, our request is a "no-growth" budget in that it reflects no increase in authorized staffing and no discretionary program enhancements. The increase we seek in budget authority will cover escalating salary and benefit costs along with cost increases in such areas as rent, telephone, and administrative support items.

Management Approach

Because salaries and related benefits represent about 70 percent of our budget, our management strategy is to continue our progress in streamlining our decisionmaking through productivity gains and more efficient operations.

This is why, in October 1986, the Commission launched a comprehensive program of management initiatives. I would like to highlight several key aspects of that program for you here today.

First, we restructured key program and administrative staffs such as the Office of Pipeline and Producer Regulation, Office of Hydropower Licensing, and the Office of the Executive Director. These reorganizations were successful in improving the efficiency with which the Commission staff processes its workload.

Second, we instituted a case tracking system that identifies cases that are delayed and those that lend themselves to generic resolution.

Third, office directors are making greater use of delegated authority to decide routine, non-controversial matters in a timely manner.

Fourth, we inaugurated an automated office support system throughout the Commission. This new computer technology allows, among other things, speedier processing of cases by eliminating manual calculations and providing staff with more timely results. It also provides the capability to transfer electronically text material from one organization to another.

Fifth, we plan to apply computer technology to assist us in the areas of data collection and dissemination of information. For example, during 1988, we will implement an electronic bulletin board which will provide state regulators, the industry and the general public with on-line access to Commission issuances and filings.

Finally, we will continue to process in a timely and efficient manner the thousands of applications and filings received each year. By the end of FY 1987, the number of

pending cases had been reduced from 3,498 to 2,808, or 20 percent less than at the end of FY 1986. In addition, during FY 1987 we completed 14,758 items of technical casework as compared to 13,099 items completed in FY 1986, an increase of almost 13 percent in productivity over FY 1986. Also, we plan to complete 14,849 and 15,176 technical workload items in FY 1988 and 1989, respectively. Further, we will conduct 2,350 dam safety inspections and review over 30,000 wellhead pricing determinations in FY 1989.

Regulatory Policy Initiatives

In undertaking new regulatory programs and approaches, the Commission has sought to create a more flexible regulatory framework that can provide greater options to regulated entities. This will allow these entities to respond quickly and effectively to changes already taking place in the energy arena. This regulatory framework, as reflected in our budget, means simulating competition wherever possible and removing unnecessary regulatory barriers to efficiency.

Our objective is not to deregulate or to mandate any particular structure for the energy industry. Our objective is to achieve a regulatory policy that accommodates the forces of change taking place in the energy industry.

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Natural Gas Policy

In support of the natural gas program, our FY 1989 budget requests funding for continued activity to create a competitive regulatory environment within which the gas industry will operate. FERC's goal is to lower prices to consumers by encouraging competition where it is possible, simulating market-like outcomes where it is not, and equally important, stimulating market solutions to the problems of gas supply and distribution.

The past year has been a dramatic period for the nation's gas industry. The D.C. Circuit affirmed the Commission's authority to institute an open-access transportation program and the industry has increasingly participated. Open-access transportation is now becoming an established feature of how the gas industry conducts business.

The past year also saw the Commission address directly the take-or-pay obstacle to market flexibility. Order No. 500 promulgated take-or-pay solutions in the form of a passthrough mechanism, crediting procedures, and a gas inventory charge. Thus, a powerful incentive is now in place for producers and pipelines to settle permanently remaining take-or-pay problems on their own in order to pave the way for market growth.

Increasing numbers of pipelines and producers are reaching global and permanent take-or-pay settlements and restructuring supply arrangements to reflect current market conditions.

Equally important, last month, the Commission issued a new rule under which pipelines and producers will be granted permanent abandonment where the underlying contract has expired or the parties otherwise agree. This significant change in the Commission's abandonment policy will remove an unwarranted regulatory impediment to the free flow of gas and provide market participants greater access to gas supplies.

A great deal was accomplished this past year. But much remains to be done. My highest priority for 1988 is implementing Order No. 500. This will permanently establish our open access gas transportation program and take-or-pay recovery mechanism. Similarly, we will continue to encourage establishment of gas inventory charges that the Commission devised in Order No. 500 to avoid the future accumulation of take-or-pay liability. And, we will work on clarifying the optional certificate procedures, which have not achieved the easy market entry the Commission initially contemplated.

Additionally, I hope to concentrate on the new market opportunities for natural gas that are emerging and the growth potential to expand existing markets. Reviewing the numerous filings for expanded capacity in the Northeast and in the West will be a major Commission priority in 1988.

Finally, we will continue to examine innovative rate design options that will deal with bottleneck problems that adversely affect supply and price. We have been looking at auctioning, and I would now like the Commission to consider capacity brokering as another effective means of allocating excess capacity.

Electric Energy Initiatives

The electric utility industry is clearly being affected by competitive pressures. Over the last decade, a number of factors have converged to bring about a dramatically different business climate in which utilities must operate: unstable capital markets, high interest rates, volatile fuel prices, uncertain rate recovery, and increased competition resulting from the proliferation of cogenerators and small power producers, as well as technological advancements in transmission and generation.

Against this backdrop, the Commission is developing a comprehensive, consistent framework for regulating the electric industry. Over the last year, the Commission has acted on a number of innovative proposals by utilities for the flexible pricing of generation and transmission. Our challenge in the future is to try to provide leadership in anticipating the need for more flexible regulation.

In this regard, the Commission plans to proceed incrementally during FY 1988 and FY 1989. The first area we will focus on will be the Public Utility Regulatory Policies Act (PURPA) and, in general, the role of independent power producers. PURPA has exceeded all expectations and has fostered a multi-billion dollar industry providing a majority of the new generating capacity in several regions of the country. PURPA power must be integrated into the overall electric picture, and the Commission is currently considering three proposed rulemakings involving PURPA and independent power producers.

Two of the rulemakings would address how to determine the avoided cost rates which utilities must pay to qualifying facilities (QFs) under PURPA. The first rulemaking would provide additional guidance to states and non-regulated utilities that decide to administratively determine avoided cost rates. The second rulemaking would offer states and non-regulated utilities the option of using competitive bidding as an alternative means of pricing QF power.

The third proposed rulemaking concerns streamlined rate and non-rate regulation under the Federal Power Act for certain non-QF independent power producers.

Now I realize that much has been written and said about these electric initiatives. I want to emphasize that the goal is not to impose a particular outcome. Rather, we are seeking to ensure that efficient outcomes are not precluded by regulatory roadblocks.

After dealing with PURPA-related issues, we plan to move expeditiously, but carefully, to the three major areas of bulk power pricing, transmission, and incentive regulation. This budget contemplates addressing these issues in an incremental, coordinated fashion.

Hydropower Program

The passage of the Electric Consumers Protection Act (ECPA) in October 1986 significantly modified key sections of the Federal Power Act. The Commission's budget request will allow us to implement fully the requirements of ECPA in its processing of hydropower applications and will take into account the compliance responsibilities resulting from the many new licenses issued in the previous fiscal years.

In FY 1988 and FY 1989, the Commission will be engaged in a comprehensive effort to complete the rulemakings, studies, and procedural changes specified in the Act and integrate these activities into the licensing process. The budget request ensures that the Commission will have the requisite professional and technical staff to perform the full range of ECPA analyses and to resolve environmental differences with state and Federal agencies as required by this law.

The Commission also plans to strengthen its efforts to maintain an effective dam safety program and to ensure compliance in the face of an increase in the number of projects licensed and under construction. The number of inspections for dam safety and compliance has increased between 4 percent and 11 percent annually for the last 5 years, and is projected to increase an additional 18 percent from FY 1987 to FY 1989.

Oil Pipeline Regulation

In the area of oil pipeline regulation, the Commission has implemented the new ratemaking methodology established in Opinion No. 154-B, with the first two formal cases expected to be before the Commission for resolution in FY 1988. In addition, we must commit resources to review oil pricing cases which are referred to the Commission by the Department of Energy.

Concerning initiatives in this program area, the oil pipeline industry exhibits characteristics indicating that some deregulation would not harm the consuming public. Therefore, we plan a review to determine whether innovative techniques that have been adopted for natural gas pipelines -- such as the ability to operate freely between maximum and minimum rate levels -- might also be applied to the oil pipeline industry.

CONCLUSION

In closing, I want to emphasize that this budget is the minimum needed to permit the Commission to continue its efforts, within its statutory authority, to create and maintain a flexible regulatory framework that will permit industry to keep pace with the current economic climate.

FERC's regulatory and management policies must evolve to accommodate economic fluctuations to avoid becoming barriers to adequate, reliable supplies of energy at the lowest possible cost to consumers.

I believe that the policy initiatives outlined above, which rely on the market to the maximum extent possible, are the best means for increasing the supply options available to the energy industry. By using market forces where they will work, we hope to lower prices to consumers, provide more accurate price signals between consumers and producers, provide better use of existing facilities, and provide the necessary incentives to build new capacity where it is needed.

Thank you very much for this opportunity to report to you on FERC's progress and plans in meeting the challenges of a rapidly changing energy market.

I look forward to working with the Congress and my fellow Commissioners to achieve our mutual goals, and I will be happy to answer any questions you may have.

Senator WIRTH. Senator Weicker.

Senator WEICKER. Thank you very much, Mr. Chairman.

Chairman Hesse, section 311 of the continuing resolution for Fiscal Year 1988 stated that none of the funds appropriated by this act or any other act may be expended by the Federal Energy Regulatory Commission for the purpose of issuing a certificate of public convenience and necessity pursuant to the application made by the Iroquois gas transmission system, one of the Commission's optional expedited certificate procedures, until the Commission has considered in accordance with applicable law the environmental impacts.

Would you please advise the committee as to what the Commission has done to comply with this provision of law?

Ms. HESSE. Senator, we are following the provision of the law to the letter. We finished processing most of the Iroquois application except for the environmental impact statement generally in June of 1987. No more work other than the environmental impact statement is now progressing.

That review process started in October 1986, and we expect a draft environmental impact statement sometime in March of 1989.

We have also learned that there are five northeast projects as part of our northeast proposal that compete with Iroquois and, therefore, that might affect and extend the completion date of that environmental work.

Senator WEICKER. That leads me to the question about my concerns that while the Commission considers the numerous pipeline applications under FERC's open season proceeding, an application may be considered and approved to provide gas to the northeast using the optional expedited certificate procedures.

Am I correct that pipeline applications under the optional expedited certificate process are not part of the Commission's open season proceeding?

Ms. HESSE. That is correct.

Senator WEICKER. Does this mean the Commission may well approve two pipeline applications to serve the same area, one for the open season consideration, the other from the optional expedited review process?

Ms. HESSE. I think theoretically that is a possible solution. I think practically it is not.

In most of the optional certificates for delivering gas to the northeast, those same projects also filed under the traditional 7(c) program during the open season.

Senator WEICKER. Now, as reported in the press, my last question, you estimate it will take three years and $10 million to do the environmental impact statement on the open season applications.

Does FERC have the budget and staff necessary to adequately consider all the applications made under the open season?

Ms. HESSE. I think as of right now, we probably will have the resources. The resources, of course, will have to be requested in numerous budget requests before Congress and before this committee.

What we are doing is trying to find some creative solutions to these problems so that we can reduce the amount of time it will take and the money that it will cost.

One possible solution is that the project sponsors would themselves pay for the environmental work. We do have some precedent

for that. We recently approved an Ocean States proposal in which the project sponsors have agreed to pay for the environmental work, although, of course, it is supervised by us.

Certainly, the Council on Environmental Quality guidelines permit this kind of behavior.

So we are looking for ways to shorten the process, but as of now that press report is correct.

Senator WEICKER. So, in other words, insofar as these applications are concerned in the northeast, the earliest that we expect the environmental impact statement is March 1989 on the Iroquois expedited application; is that correct?

Ms. HESSE. That is correct.

Senator WEICKER. Then insofar as the open season applications are concerned, that would be sometime beyond even that date; is that correct?

Ms. HESSE. It may be unless we can find a way to consolidate these projects.

Senator WEICKER. I have no further questions. Thank you very much, Mr. Chairman.

Senator WIRTH. Senator Ford.

Senator FORD. Thank you, Mr. Chairman.

Let me first say that Chairman Hesse saved us a great deal of time today. She answered a good many questions I submitted to her sometime ago. If she had not sent those in, I would have asked her each and every one of those here today.

Let me compliment you on getting them on. You are pretty good, or your staff is. You got them in to me in time so that I do not have to ask the questions, but it is too late for me to digest them.

[Laughter.]

Senator FORD. Whoever figured that out for you needs a raise.

There is a resolution on pending FERC rulemaking proposals, Mr. Chairman, for administrative reform of the Public Utility Regulatory Policies Act that come by regulators. I am not going to try to read all of it, but I would like to submit it for the record.

I just want to read the resolving clause, if I may, for the record.

That the Executive Committee of the National Association of Regulatory Utility Commissioners, assembled at its 1988 winter committee meetings in Washington, D.C., recommends that:

1. The FERC abandon pursuit of the current three Notices of Proposed Rulemakings and instead promptly issue a policy statement confirming the lawfulness of states utilizing a competitive process for determining avoided cost for qualifying facilities under PURPA;

2. That FERC proceed with its clarification of the administrative determination of avoided cost by issuing general guidelines for State implementation;

3. That FERC terminate the Notice of Inquiry in Docket Number RM85-17 and proceed with rulemaking on transmission regulations;

4. That the FERC not promulgate any final rules in regard to independent power producers until such time as it completes its rulemaking on transmission;

5. The FERC should avoid any preemptive action in the areas of all Source Bidding, Independent Power Productions and PURPA; and

6. In the event that the FERC elects, notwithstanding the above resolutions, to go forward with the three Notices of Proposed Rulemaking as currently contemplated, then there should be provided an initial comment period of at least 120 days, an additional comment period of 30 days after the initial comments are in. Further, regional hearings at the conclusion of the reply period should be provided.

I might say, Madam Chairman, that that was a unanimous vote, 21 to nothing, as they passed these whereases and resolutions.

Mr. Chairman, I submit the total resolution for the record.
Senator WIRTH. Without objection, it will be included.
[The resolution follows:]

RESOLUTION ON PENDING FERC RULEMAKING PROPOSALS FOR ADMINISTRATIVE REFORM OF THE PUBLIC UTILITY REGULATORY POLICIES ACT

WHEREAS, The Congress of the United States enacted the Public Utility Regulatory Policies Act of 1978 (PURPA) which enunciated Congressional policies to reduce our nation's dependence on imported fuels through development of a program which includes, inter alia, a requirement for utilities to purchase power generated by qualifying facilities and to ensure that such transactions reflect rates that are just and reasonable and do not discriminate against cogenerators and small power producers; and

WHEREAS, The implementation of PURPA has resulted in a desirable federal-state cooperative effort which has been responsive to the needs of ratepayers, utilities, and qualifying facilities, with the states, and in a continual refining of administrative approaches to PURPA by the states, including the application of a more market-based approach consistent with unique local circumstances; and

WHEREAS, The four regional, public conferences scheduled in 1987 by the Federal Energy Regulatory Commission (FERC) under Docket No. RM87-12-000 with respect to the status and implementation of Section 210 of PURPA produced considerable comment on the need to improve the existing regulations with respect to the administrative determination of avoided cost; and

WHEREAS, The record developed in Docket No. RM87-12-000 provides a comprehensive basis for fine tuning the PURPA program that would still permit the states to retain the flexibility and independence to design and promote integrated supply and demand resource planning and procurement strategy for meeting electric service requirements; and

WHEREAS, The FERC deferred action on issuing proposed PURPA rules which would refine the avoided cost determination and instead elected to proceed with consideration of broader regulatory reform policy options which would constitute a major restructuring of the electric industry; and

WHEREAS, The FERC has been presented by staff with three Notices of Proposed Rulemaking which seek to reduce or limit the scope of regulation in the electricity industry and expand the role of competition through the concept of competitive bidding as a mechanism for acquiring new capacity and to permit independent power producers to participate directly in the bidding process; and

WHEREAS, The proposed regulatory reforms such as the multi-state jurisdictional determination of avoided cost raise serious legal questions as to whether FERC possesses the power to delegate statutory authority to state commissions or whether such delegation remains within the exclusive province of Congress; and

WHEREAS, The use of independent power producers operating in a competitive market as envisioned under the FERC Rulemaking Proposals raises serious concerns that need to be carefully examined by state regulatory authorities; and

WHEREAS, The FERC, in 1985, issued a Notice of Inquiry in Docket No. RM85-17 relating to transmission regulation for which a comprehensive record was developed and a staff analysis has not been completed or a report provided to the FERC; and

WHEREAS, The NARUC has independently undertaken a series of initiatives on improving transmission regulation through research efforts by the National Regulatory Research Institute, The Electric Power Research Institute, and with The National Governor's Association which would assist FERC in the examination of transmission capacity, pricing and access planning and siting issues; and

WHEREAS, The FERC has determined that it will proceed with the administrative reform proposals without addressing transmission regulation notwithstanding concerns advanced by state regulators, utilities, and qualifying facilities that bidding proposals beyond PURPA cannot be considered separately from transmission access issues; and

WHEREAS, Concern has been expressed that the development of independent power producers may be hindered by the Public Utility Holding Company Act; and

WHEREAS, The NARUC is concerned that the decision of FERC to proceed directly with a Proposed Rule Making rather than Notice of Inquiry type of investigation into such complex areas as national energy policy and restructuring of the electric industry may preclude and the development of a complete record and needed debate; and

WHEREAS, Preemptive action by the FERC in the areas of PURPA, Independent Power Production and all source competitive bidding is unnecessary, unacceptable and a clear breach of numerous FERC assurances on which NARUC members have relied over the last 12 months; Now, therefore, be it

RESOLVED, That the Executive Committee of the National Association of Regulatory Utility Commissioners, assembled at its 1988 winter committee meetings in Washington, D.C. recommends that :

1. The FERC abandon pursuit of the current three Notices of Proposed Rulemakings, and instead promptly issue a policy statement confirming the lawfulness of states' utilizing a competitive process for determining avoided cost for Qualifying Facilities under PURPA.

2. The FERC proceed with its clarification of the administrative determination of avoided cost by issuing general guidelines for state implementation.

3. The FERC terminate the Notice of Inquiry in Docket No. RM85-17 and proceed with rulemaking on transmission regulation.

4. The FERC not promulgate any final rules in regard to Independent Power Producers until such time as it completes its rulemaking on transmission.

5. The FERC should avoid any preemptive action in the areas of all Source Bidding, Independent Power Production and PURPA.

6. In the event that the FERC elects, notwithstanding the above resolutions, to go forward with the three Notices of Proposed Rulemaking, as currently contemplated, then there should be provided an initial comment period of at least 120 days and an additional comment period of 30 days after the initial comments are in. Further, regional hearings at the conclusion of the reply period should be provided.

Sponsored by the Committee on Electricity
Adopted by NARUC Executive Committee on March 2, 1988

Senator FORD. Secondly, Madam Chairman, the distinguished Chairman of this committee, the distinguished ranking member, Senator McClure and myself wrote you a letter on February 16 as it related to the 120 days. When can we expect a reply from you on that?

Ms. HESSE. Senator, I did receive your letter, and the exact timing of the notices of proposed rulemaking is still being discussed among the commissioners. The original draft of the notice of proposed rulemaking, although it did specify that we would have public hearings at the end of 45 days, did not specify the amount of time that we would give the public for comment.

This particular point will be voted on by my colleagues. I have given them a copy of your letter, and I can assure you that we will carefully consider your views.

Senator FORD. But you are not going to acknowledge this letter with some kind of recommendation or your thoughts on it? You are just going to say that your colleagues will vote on it? When?

With the regulatory commissioners voting unanimously for 120 days and then the letter from the Chairman and ranking member of this committee along with one of the peons being sent to you, do you have any position on it yet at all?

Ms. HESSE. I am still considering the amount of time that we should allow for public comment. We are concerned that we do allow adequate time, enough but not too much. We really need to get on with this process.

There have been a number of suggestions about dates, and one of the suggestions that I find intriguing is that we stagger the dates for the response; that we give 90 days, say, for one notice of proposed rulemaking and 120 for another.

I favor at least for the independent power producer NOPR that we would give 120 days. That is about as far as I have come in my analysis.

Senator FORD. You are improving, I will say that, in your thought process. I want to compliment you on that. That is twice I have done that today. That is unusual, is it not?

If we lose our good humor, we are in bad trouble.

I have three quick questions, Mr. Chairman, maybe four.

The administration has recently completed a review of Federal regulatory programs which affect the ability of a utility to demonstrate and deploy new technologies. While their recommendations have not yet been made public, it appears as though the Department of Energy could be requesting the FERC to consider and act on these recommendations in the very near future. So under those circumstances, let me ask you two or three questions here.

Have any of the recommendations of the Presidential Task Force on Regulatory Relief as approved by the President been incorporated in the policy deliberations by the FERC on PURPA-related issues?

Ms. HESSE. I would say a qualified yes, although I have not seen nor reviewed the specific recommendations.

We are awaiting the petition from the Department of Energy requesting that we do a rulemaking.

Senator FORD. You said yes, that you have used them; yet, you have not seen them?

Ms. HESSE. Only from the general point that the theory and the policy behind these recommendations——

Senator FORD. I wanted you to clear that up because you said yes, that you were using them and no, you had not seen them.

But you have seen the general concept?

Ms. HESSE. Yes, and we have incorporated the general concept, which is to encourage innovative technologies, to level the playing field, to have more flexible regulation and a more competitive environment.

I believe that in PURPA and in the NOPRs that we have proposed or that we are discussing, I should say, we take into consideration the general policies and goals of the President's recommendations.

Senator FORD. Have you given any thought or taken a position or begun to formulate a position as to how you will respond to the task force recommendations?

Ms. HESSE. Under the DOE Reorganization Act, the Secretary of Energy has special petitioning powers. He can petition for rules and regulations and policies.

We must respond within a time certain, a time certain that is really suggested by the Secretary of Energy, and we will do that. We will do that as quickly as we can.

Senator FORD. My judgment is there could be a potential conflict between some of the new PURPA policies we are discussing and the recommendations of the President's Task Force.

How will you, as Chairman, handle any conflicts which may arise between the new PURPA policies and the task force recommendations?

Ms. HESSE. Carefully.

From what I know of the policies——

Senator FORD. I do not mind that kind of answer at all. I think that is excellent.

What is carefully, then, is the key to number three?

Ms. HESSE. We will take into consideration the goals of the President's policies on clean coal technology. We will carefully consider the petitions that are put forward to us from the Secretary of Energy, and we will make certain that there are no conflicts.

I do not see any policy conflicts at the moment, and we will make certain that there are none.

Senator FORD. Madam Chairman, as you know the Clean Coal Program is very important to this committee and particularly to this Senator.

The success of the program is going to be tied to what FERC decides to do with PURPA and how it responds, in my opinion, to the President's Task Force recommendations.

As this process unfolds further, I guess, will you be available for further discussions with the committee regarding the task force recommendations and the potential conflicts with the new PURPA policies and how we all might resolve them in some effective manner?

Ms. HESSE. Senator, I will be available, and I look forward to it.

Senator FORD. Fine.

I thank the Chairman, and that completes my questioning.

I thank the Chairman for her forthright statements today, and I look forward to your answer on the 120 day matter, which you said you were leaning toward.

Ms. HESSE. Thank you, Senator.

Senator WIRTH. Thank you, Senator Ford.

Senator McClure.

Senator MCCLURE. Thank you very much, Mr. Chairman.

I appreciate the questions asked by Senator Ford because many of them are on my mind as well, as the Senator well knows and I think as you know.

I want to explore about three different areas, if I may, and it may take just a little time to lay the background for one or two of them. One is on natural gas; the second is on electricity; and the third is on parochial matters, but they are not too parochial.

First, on natural gas open access transportation, it has been more than two years since Order No. 436 was issued. It has been six months since Order No. 500 was issued, and that was the temporary replacement for Order No. 436.

The Commission is dealing with extremely complex issues, and there are a great many different interests that are following very closely and contesting very strongly every step of the way. But it is an almost glacial pace. I am not sure that you can speed it up.

I am sure that many wish there was a way of bringing some stability to the market that is marked by the instability of a market in very, very great change and the time that it takes to sort out those changes.

In this connection, I must note that I seriously question the take-or-pay crediting provisions of Order No. 500. In my opinion, they are not good policy. Moreover, they appear to be of questionable legality.

Now, this leads me to ask the underlying question. Recognizing the difficulty of your task, when can we really tell people in the industry and those who are affected by it, from producers to consumers, when we can expect the kinds of actions that will bring about stability to this market?

Ms. HESSE. Each of the players in this industry has a role. There is a regulatory role, and there is an industry role for each of the various participants in the industry.

In some cases, the Federal Commission has to begin the process, and then we put out our rules and regulations and we go through the process of proposed rules and finalizing rules.

Then once they are out there and they are final, it is up to the industry to then take the ball and run to its portion of the game.

I agree with you that the pace has been glacial. I do believe, in addition to that, that it is quickening; that the pipeline industry, for example, has finally decided that open access transportation is here to stay and that they might as well get with the program and do it.

But I think that once you put these proposals out, change takes time, and the Commission has to have the restraint and composure to stand back and let the industry participants find their own roles and their own places in the market.

This kind of restructuring, if you will, takes time. I think that we have seen a tremendous movement in the industry in the last

couple of years and that the pace is indeed quickening and that we are on the road to open access transportation and to solving a number of the very serious problems that face this industry.

Senator MCCLURE. I am sure we are on the road. We have been on it a long time. I guess that is really basic to both the questions that many people are asking about the regulatory climate for the natural gas industry and also a reason for skepticism as you launch into new initiatives with respect to the electric utility industry.

I think all of us would recognize that the market in natural gas was evolving in a very chaotic fashion with the tremendous fluctuations in supply and demand, market price conditions, and expectations. That one was broken and needed fixing.

There are a great many people that do not believe the electric utility industry is broken and that what you are trying to do is break it so you can pick up the pieces in a different form. That is a fair characterization of what I am hearing from a number of people.

I guess my concern is if it takes this long to deal with the problem that we have to deal with in natural gas, which is as yet uncompleted, is it wise for us to move so quickly to break up the patterns in the electric utility industry when we have no expectation that we will be able to put those pieces back together any more rapidly than we have been able to in the natural gas industry.

Ms. HESSE. I believe that the restructuring of the natural gas industry is close to the end. I believe that there is reliability in gas markets and some stability in gas markets, knowing that prices can go up and they also can go down.

There is at least some sense of regulatory certainty. We announced what we were going to do in early 1987, and we have followed that. We have announced generally what we are going to do in 1988.

I think that the pipelines, the producers and the LDCs know what to expect from the Federal Energy Regulatory Commission and that we have stood by our policies and our programs.

Now, when it comes to the electric industry, I have, of course, as you have, heard all of the "well, if it is not broke, why fix it", and "you are going to take it apart and put it back together again", and "you are trying to deregulate". All of those comments I very strongly disagree with.

We are not trying to deregulate anything. Only Congress can deregulate. We are not trying to break it apart and put it back together. What we have said is that, clearly, there is room for improvement in the electric industry, that it has been undergoing a period of change for at least the last decade.

Congress itself precipitated some of that change when it passed PURPA and essentially said that generation is no longer a natural monopoly.

What we are trying to do in a very specific area of the electric industry which is PURPA is we are trying to expand the supply options and the flexibility options for the states to determine and to provide lower cost to consumers.

We are not in the business of destroying the distribution system, of destroying the transmission system. We are looking at a very

narrow piece of this industry. It is, in fact, a piece of the industry that in my first confirmation hearing you asked me to look at. That is PURPA.

Congress itself, both the Senate and the House, held hearings in 1985 on PURPA.

Senator McCLURE. May I ask a question with respect to that? Certainly, it is true that PURPA has produced changes and, I would submit, changes far greater than were anticipated by the Congress at the time PURPA was passed.

Have you thought of making a recommendation to the Congress that perhaps Congress acted unwisely in PURPA and we ought to retrench?

It seems to me that you have rather enthusiastically embraced all the changes that PURPA is bringing and seek to enlarge upon those changes in order to achieve a restructuring of the industry.

Ms. HESSE. That is not our intent. Our intent is not to restructure the industry. Our intent is to provide flexible options. The industry can decide itself how it wants to restructure. That is an industry decision; it is not a regulatory decision.

Senator McCLURE. How about the role that Congress played in passing PURPA? Is that a wise role that Congress played? Is it working well? Should Congress change PURPA?

Ms. HESSE. I think the passage of PURPA was wise. I think that it is working well, but I also think that it needs some fine tuning, which is a FERC responsibility.

I do not think at this point that Congressional change of PURPA is required.

Senator McCLURE. Then you should not point the finger at us and blame us as though you were detached from that process and it is all our fault.

Ms. HESSE. I am not suggesting that. I am suggesting that I was responding to Congress.

Senator McCLURE. I understand. I occasionally try to divert the attention away from my own activities, too. Sometimes I am successful; oftentimes I am not.

I want to touch on a matter that is not just parochial. It happened in Idaho, but it is a symptom of something very much larger than that question and one which perhaps arouses more emotions than you are aware of. That is the State/Federal relationship with respect to water.

I am concerned about the direction that is being taken by the Commission in recent hydro licensing decisions. Last March in your Rock Creek order, you asserted that the Electric Consumer Protection Act of 1986 confirmed the Commission's exclusive authority over water rights matters associated with licensed projects.

My July 30, 1987 letter to you on this matter states my belief that the Commission's assertions in Rock Creek regarding water rights are unfounded.

On January 25, 1988 in the Horseshoe Bend case, the FERC again went far beyond its authority when addressing water rights, and there are other such cases that the Commission has acted similarly upon.

Let me first remind you that in the Electric Consumer Protection Act of 1986, Congress explicitly and intentionally left untouched

section 27 of the Federal Power Act. Section 27, in case you have forgotten, states, and I will quote, "Nothing herein contained shall be construed as affecting or intending to affect or in any way to interfere with the laws of the respective states relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal or other uses or any vested right required therein."

Without going into all of the nuances of this situation, let me just observe that the FERC's decisions in these matters are not sitting very well out west. Congress did not vest FERC with the role of the central planner of water uses, and we will not sit still if you seek to do so.

If through some quirk of a court decision you are successful in your efforts to seize control over water rights, then I strongly suspect that Congress will revisit this issue.

I know what the Supreme Court said in First Iowa and subsequent cases. Again, I suspect you can point to that and justify your actions, but, again, as in the instance of PURPA, I think you are seeking to divert away from a central responsibility which FERC has and can exercise.

Certainly under our form of government, checks and balances are uneasily accepted by those who are checked or balanced. One of the checks and balances in our system was a division of authority between Federal Government and State Governments.

Some, seeing that as an impediment to the orderly exercise of power, have sought to set aside those checks and balances and find a way in which to state that, indeed, that check and balance has been resolved in favor of one party rather than permit any constructive tension to exists.

But when you assert, as you have, that once a Federal license is issued on any water project you then have exclusive control over every water upstream from that Federally-licensed project, you declare war on the west. I submit to you that the west will enter that war, and we will all be losers.

There ought to be a way to resolve conflicts without seeking absolute superiority. I hope you understand what I mean.

Ms. HESSE. It is very clear, Senator, yes.

Senator MCCLURE. Is there not a way in which we can share responsibility without seeking predominance?

Ms. HESSE. I would certainly hope so.

As you might imagine, we have a four or five-page set of legal rationale for why we did what we did. I know that you and I have talked before about the need for us to work together and come up with some solutions to water rights questions, and I look forward to that.

We do have problems with Federal versus State roles, particularly when we are talking about a single entity, and we must find ways to mutually cooperate so that we can fulfill our separate and joint responsibilities.

I know that we need to work in that area, and I am committed to doing that.

Senator MCCLURE. I wish you would, and I wish you would look at language like the Horseshoe Bend case as an example. I know it

was a unanimous decision by the Commission, not just you. It is institutional, I am afraid.

There were flat assertions in that case that went beyond the necessity of the case. That is what worries me. I see the pattern developing in which, an opening having been made, FERC seeks to exploit and consolidate that dominance over the water scene.

I think you know that in an arid country, water is life. Water tells us what kind of quality of life we will have, what our economic opportunities are, and what the development potential or lack thereof will be.

You are not just talking about an abstract proposition of resource allocation. You are talking about the ability of a people to react to their own needs in the ways that they perceive to be important to them.

I do not believe it is a question of saying that the states are not interested in the preservation of stream flows, the states are not interested in fisheries resources, the states are not interested in the conservation issue. That would be simply a misreading, because the states are acting in each of those areas.

But the states have a diverse set of very real problems to deal with, and water affects every one of those problems in the arid west.

We simply must find a way to allow the states to have some say over their own destiny. If we do not find that under the Federal Power Act and the other statutes that we already have enacted, then it seems to me that we are going to have a pitched battle in the Congress of the United States as some states seek to be able to determine their own future and others states, for whatever reasons, seek to preempt that authority. That, I submit to you, is a battle in which everyone loses, and it is unnecessary under existing statutes.

The Supreme Court in First Iowa completely ignored section 27. It was the most tortured reasoning I have ever seen in what are oftentimes very tortured decisions. They came to a conclusion that they wanted to reach because to some people it is untidy to have two people who have to get along together in making decisions.

I would suspect that if the Supreme Court, in making that decision, had applied equal logic to marital relationships, they would have to find either husband or wife dominant, and I dare them to try that. Other relationships are equally as sensitive. I do not know why they have to try to find one side as the total master and the other totally subservient. That is nonsense, in my view.

I hope you will explore the opportunity to work under existing statute to find a way in which we can live together, not in conflict.

Senator FORD. Mr. Chairman, I have been around here almost 14 years now, and I have known Jim McClure. His word is as good as gold. I would say that the conflict has already been engaged. I want to be left alone down in Kentucky just to do our clean coal technology and kind of get along as I support Jim McClure in trying to keep his water.

Senator MCCLURE. Thank you.

Mr. Chairman, I have some other questions. I want to explore the New West question. I am very disturbed that in the New West issuance we have not been able to find a way to get low cost gas

flowing through to producers without a resolution of the take-or-pay problems. That simply is not going to happen. I think you know it. I think it is reflected in the Commission's reactions to their applications.

I want to submit some questions to you on that matter as well and would seek your answer in response to those questions.

Thank you.

Ms. HESSE. Thank you, Senator.

Senator WIRTH. Thank you very much, Senator McClure.

Let me ask you a final question, if I might, Ms. Hesse. Former National Energy Board of Canada Chairman Jeff Edge recently filed expert testimony in the Pacific Gas transmission rate case before FERC. He stated that if the U.S.-Canada free trade agreement were ratified, it would vitiate FERC Opinion 256 prohibiting as-billed flowthrough of Canadian gas costs.

I was wondering if you or your staff analyzed the implications of the free trade agreement, if you agree with former chairman Edge's assessment, and what your position is on the legislation introduced by Senator Bingaman on this issue.

Ms. HESSE. Mr. Chairman, the final trade agreement has not been submitted to Congress, so I have become very sensitive about commenting on things that I have not seen.

Senator WIRTH. But it is very important, and we all understand that before it is submitted there is a lot of discussion as to what should be in that. I would assume that FERC plays in that and you will not just sit back and watch it happen and then wait but, rather, will be engaged in that.

Ms. HESSE. That is right.

Senator WIRTH. That is my hope on this issue, that you would become engaged. Obviously that is the thrust of my question. Please go ahead.

Ms. HESSE. We see no conflict with our current way of doing business. From what I know of the free trade agreement, it mandates nondiscriminatory treatment, and that is certainly consistent with existing FERC and DOE policy.

It does give potentially aggrieved parties, I guess, lines of argument and forums for discussion, but it does not require changes in FERC policies or procedures, and it does not provide any legally binding means of appealing or reversing FERC Opinion No. 256, which is what he is concerned about, or any other FERC action.

Senator WIRTH. Is the argument made, if I understand it, that if the U.S.-Canada agreement becomes law, that jurisdiction would shift from you to ERA and the ERA would allow a different allocation of costs than you do?

Ms. HESSE. That is not my understanding of the existing version of the trade agreement. It would only be after Congress approved such a switch in responsibilities that that would take effect. But I do not think that it is part of it right at the moment.

Senator WIRTH. Maybe we can ask counsel. I am sure you understand this and can square us away on the relationship of the free trade agreement to ERA and FERC's opinion, an issue which you know is of great concern to natural gas producers in the west.

Senator MCCLURE. Mr. Chairman, would you yield on that?

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If my memory serves me correctly, and I was just checking with staff, I believe our Trade Representative, in testimony before this committee, testified that the trade agreement does not alter the regulatory arrangements within this country.

Ms. HESSE. That is correct.

Senator MCCLURE. I think I can understand that the Canadians might desire that and might even wish to allege it in the hope that the wish becomes mother to the fact, because they have not liked your allocation of costs and they have not agreed with the basis.

I suspect what Mr. Edge is saying is, given a new shot in a new forum, certainly reason will prevail and that nasty FERC will get overturned.

Senator WIRTH. The point is that, as in my question, their former chairman has effectively said that the free trade agreement would trump the relationship between FERC and ERA and that if the free trade agreement as currently drafted becomes law, FERC would not have the authority that it currently has or the ability to work with the ERA as it currently has.

Is that correct?

Ms. HESSE. I believe that is his position, but I think that his position is incorrect.

Senator WIRTH. You do not agree with that?

Ms. HESSE. That is right, and our legal counsel disagrees with that position as well.

Senator MCCLURE. Mr. Chairman, if you would yield further, I think it is worth noting, however, that the free trade agreement does provide an arbitration mechanism for people on both sides who feel that actions taken by the contrary government are not justified under the trade agreement.

I assume that Canadians who do not like the FERC order would have access to that arbitration process to determine the validity of the FERC order in light of the free trade agreement.

Ms. HESSE. That is correct, and that their disagreement or appearances before the board would in turn become part of the record on any FERC proceeding. But we would not be bound by that unless, of course, Congress, when it passes the free trade agreement, changes our existing responsibilities.

Senator WIRTH. Fine. Thank you very much, Ms. Hesse. We greatly appreciate your being here, and we will look forward to your answers to questions to be submitted for the record.

Thank you very much.

Ms. HESSE. Thank you, Mr. Chairman.

Senator WIRTH. The committee will be adjourned.

[Whereupon, at 12:07 p.m., the hearing was adjourned.]

APPENDIXES

Appendix I

Responses to Additional Committee Questions From the Department of Agriculture, Forest Service

FOREST SERVICE

QUESTIONS SUBMITTED BY
SENATOR JAMES A. McCLURE

FY 1988 BUDGET ASSUMPTIONS

1. Question: Would you provide for the record a fiscal year 1988 baseline table by Bureau indicating for each appropriation account--

   a. the budget authority and estimated outlays as appropriated by the Congress;

   b. any proposed rescissions or deferrals; and

   c. any anticipated supplemental appropriations.

   Answer: a. The information is provided in the following display:

FOREST SERVICE
1988 BUDGET AUTHORITY & OUTLAYS
(Dollars in thousands)

	1988 Budget Authority	1988 Outlays
Research	$ 135,510	$ 129,789
State and Private Forestry	76,469	78,998
National Forest System	1,243,391	1,165,777
Construction	214,078	219,454
Mount St. Helens	--	2,271
Land Acquisition	49,076	54,281
Acquisition of Lands for National Forest Special Acts	966	907
Acquisition of Lands to Complete Land Exchanges	990	1,052
Range Betterment Fund	3,605	3,645
Appropriated Trust Fund	90	90
Timber Salvage Sales	37,000	34,040
Permanent Appropriations:		
Working Funds (including Tongass)	151,056 1/	149,738
Payments to States	314,382	288,750
Subtotal	465,438	438,488
Cooperative Work, Trust Fund	250,369	252,055
Reforestation Trust Fund	30,000	30,000
Other Accounts	---	129
Total, Forest Service	$ 2,506,982 1/	$ 2,410,976

1/ Does not include $75,0000,000 rescission of unobligated balances in the Timber Roads, Purchaser Elections appropriation.

As indicated above, the 1988 appropriations act included the rescission of $75,000,000 of unobligated balances in the Timber Roads, Purchaser Elections program.

There are no supplementals or deferrals proposed for FY 1988.

2. Question: For each rescission, deferral or supplemental appropriation indicated in question 1, would you provide for the record its justification and status?

Answer: Pursuant to the FY 1988 Appropriations Act, $75,000,000 in the Purchaser Elections program unobligated balances was withdrawn by Treasury.

The purpose of the Purchaser Elections program is to construct, through a process of competitive bidding, timber sale roads for small business purchasers who elect to have the roads constructed by the Forest Service. In order for roads to qualify, construction costs exceeding $20,000 must be included in the timber sale contract and the purchaser must be classified as a small business operator. The Forest Service has no control on demand for these funds.

For many reasons, such as sales not selling, delayed sales or sale modifications, the large unobligated balances (the difference between Forest Service estimates and actual obligations) had accrued over a period of years and were not expected to be used.

FY 1989 BUDGET REQUEST

3. Question: Would you provide for the record a fiscal year 1989 appropriations account baseline table, indicating the request (a) made for each program to the Assistant Secretary, (b) made by the Assistant Secretary to the Secretary, (c) made by the Secretary to OMB, and (d) included in the President's proposed budget?

Answer: The information is provided in the following display:

2/15/88 - 9:15 AM (FY1989\FORESRUD\88ITEM8)

USDA - FOREST SERVICE
ITEM 8 -- BUDGET REQUEST HISTORY TABLE

	FY 1987 FINAL	FY 1988 APPROP.	FY 1989 REQUEST TO DEPARTMENT	FY 1989 REQUEST TO OMB	FY 1989 REQUEST TO CONGRESS
FY 1989 - DESCRIPTION -- EXPANDED VERSION					
FOREST RESEARCH:					
Forest Protection Research	31,224	31,499	30,641	25,939	33,260
Resource Analysis Research	24,644	25,353	25,880	24,733	23,479
Timber Management Research	23,891	25,548	29,891	25,772	24,721
Forest Environment Research	28,154	29,239	33,256	30,152	29,000
Forest Products and Harvesting Research	18,888	19,868	22,857	19,653	18,748
Competitive Grants	6,000	3,000	0	4,000	0
TOTAL, FOREST RESEARCH	132,721	135,310	150,640	140,249	129,279
STATE AND PRIVATE FORESTRY:					
Forest Pest Management:					
Federal Lands:					
Surveys and Technical Assistance	11,997	13,689	14,727	14,727	14,228
Insect and Disease Suppression	10,783	13,389	13,198	13,198	10,360
Special Projects	1,888	1,816	1,748	1,348	1,819
Cooperative Lands:					
Surveys and Technical Assistance	8,219	8,877	3,488	8,888	8,877
Insect and Disease Suppression	12,235	10,588	5,888	4,888	0
Subtotal, Forest Pest Management	38,462	41,841	38,864	35,464	28,111
Fire Protection	13,661	13,778	13,166	6,166	3,878
Forest Management and Utilization:					
Forest Resource Management	5,252	4,983	5,736	4,878	0
Wood Utilization	1,823	1,996	1,837	1,837	0
Seedlings, Nursery, and Tree Improvement	1,814	1,798	2,324	2,324	0
Urban Forestry	1,937	1,998	1,316	914	0
Subtotal, Forest Management and Utilization	10,826	10,783	10,413	8,345	0
Special Projects:					
Boundary Waters Canoe Area	2,888	2,888	2,888	2,888	2,888
Pinchot Institute for Conservation Studies	295	298	0	0	0
Lake Tahoe (PL 96-586)	1,488	1,488	0	0	0
Cache La Poudre River Corridor	0	75	0	0	0
Hollag, ID Gondola	0	6,488	0	0	0
Marketing Initiative	0	0	3,387	0	0
Subtotal, Special Projects	4,485	10,875	6,387	2,888	2,888
TOTAL, STATE AND PRIVATE FORESTRY	66,554	76,469	67,958	52,773	34,781

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USDA - FOREST SERVICE
ITEM 8 -- BUDGET REQUEST HISTORY TABLE

FY 1989 - DESCRIPTION -- EXPANDED VERSION	FY 1987 FINAL	FY 1988 APPROP.	FY 1989 REQUEST TO DEPARTMENT	FY 1989 REQUEST TO OMB	FY 1989 REQUEST TO CONGRESS
NATIONAL FOREST SYSTEM:					
Land and Resource Protection:					
Minerals Area Management:					
Locatable Minerals	9,887	9,661	12,184	12,184	11,619
Leasable Minerals	13,356	11,375	12,319	12,319	11,682
Common Variety Minerals	2,781	2,776	3,142	3,142	3,032
Geology	1,783	2,871	3,325	3,325	3,078
Subtotal, Minerals Area Management	27,807	26,683	30,890	30,890	29,611
Real Estate Management:					
Land Exchange & Adjustment	5,236	5,268	7,846	7,846	5,746
Land Classification, Status & Planning	1,675	2,615	3,339	3,339	2,723
Special Uses	7,582	8,986	11,285	11,285	9,128
Geometronics	5,857	5,168	6,241	6,241	5,097
Subtotal, Real Estate Management	20,350	21,834	27,831	27,831	22,694
Land Line Location	26,980	26,681	32,489	32,489	29,678
Maintenance of Facilities	15,050	16,933	22,878	22,878	16,953
Forest Fire Protection:					
Fire Presuppression	147,385	156,477	175,899	165,484	148,819
Fuels Management	12,003	8,552	10,644	9,632	6,973
Subtotal, Forest Fire Protection	159,388	165,029	186,793	175,036	154,992
Fighting Forest Fires	125,000	125,[illegible]	1,866	1,866	35,000
Cooperative Law Enforcement	6,675	9,669	11,245	11,245	11,245
Forest Road Maintenance	63,873	83,748	72,698	72,698	68,133
Forest Trail Maintenance	11,365	20,826	22,776	15,636	15,636
Total, Land & Resource Protection	454,913	495,165	488,568	389,761	383,934
Renewable Resource Management & Utilization:					
Sales Administration and Management:					
Timber Resource Inventory Planning	13,657	16,177	16,945	16,945	16,987
Silvicultural Examination	21,351	26,619	28,161	28,161	27,698
Sales Preparation	102,295	98,432	106,783	106,783	106,876
Harvest Administration	52,177	44,333	63,544	63,544	63,059
Subtotal, Sales Administration and Management	189,648	185,561	215,433	215,433	213,972

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USDA - FOREST SERVICE
ITEM 8 -- BUDGET REQUEST HISTORY TABLE

FY 1989 - DESCRIPTION -- EXPANDED VERSION	FY 1987 FINAL	FY 1988 APPROP.	FY 1989 REQUEST TO DEPARTMENT	FY 1989 REQUEST TO OMB	FY 1989 REQUEST TO CONGRESS
Reforestation & Stand Improvement:					
Reforestation	47,875	47,621	48,447	48,447	48,290
Timber Stand Improvement (TSI)	27,300	26,635	36,973	36,973	30,350
Nursery and Tree Improvement Operations	14,923	14,667	19,427	19,427	17,592
Subtotal, Reforestation & Stand Improvement	90,098	88,323	96,847	96,847	88,232
Recreation Use:					
Recreation Management	93,283	96,945	141,871	113,818	96,689
Wilderness Management	10,324	12,581	14,918	12,634	12,664
Cultural Resource Management	9,688	14,216	12,592	17,941	12,809
Subtotal, Recreation Use	113,287	123,742	169,373	144,385	122,162
Wildlife and Fish Habitat Management:					
Wildlife & Fisheries Admin. & Resource Coord.	25,958	29,352	38,153	37,839	32,288
Wildlife Habitat Improvement	6,645	5,634	12,487	7,758	5,356
Inland Fish Habitat Improvement	1,788	3,846	5,118	4,823	2,726
Endang., Threat. & Sensitive Species Hab. Imp.	3,578	4,489	3,611	3,220	2,179
Anadromous Fish	4,399	4,123	9,431	7,126	2,856
Subtotal, Wildlife & Fish Habitat Management	42,352	47,444	68,800	59,966	45,397
Range Management:					
Range Vegetation Management	25,975	25,670	31,195	27,638	24,155
Range Forage Improvement	598	274	1,187	383	382
Range Structural Improvement	194	1,442	1,118	557	538
Wild Horses & Burro Management	288	286	241	288	181
Noxious Weed Control	1,429	1,553	1,614	1,241	1,069
Subtotal, Range Management	27,576	29,225	35,347	30,227	26,325
Soil, Water and Air Management:					
Soil, Water, & Air Operations	24,680	25,677	36,943	36,943	27,393
Soil & Water Resource Improvement	3,184	3,291	3,276	3,276	2,235
Soil & Water Inventories	6,189	6,383	4,667	4,667	4,669
Subtotal, Soil, Water & Air Management	33,981	35,271	44,886	44,886	34,297
Total, Renewable Resource Mgmt. & Util.	497,134	509,566	630,686	591,744	538,385
General Administration	263,121	268,660	285,871	285,871	275,336
Less Reforestation Trust Fund	(30,000)	(30,000)	(30,000)	(30,000)	(30,000)
TOTAL, NATIONAL FOREST SYSTEM	1,185,168	1,243,391	1,295,125	1,237,376	1,159,655

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USDA - FOREST SERVICE
ITEM 8 -- BUDGET REQUEST HISTORY TABLE

FY 1989 - DESCRIPTION -- EXPANDED VERSION	FY 1987 FINAL	FY 1988 APPROP.	FY 1989 REQUEST TO DEPARTMENT	FY 1989 REQUEST TO OMB	FY 1989 REQUEST TO CONGRESS
CONSTRUCTION:					
Construction of Facilities:					
Research Construction	343	2,988	4,018	4,018	682
Construction for FAO	8,646	6,745	14,558	14,358	6,523
Recreation Use Areas Construction	17,817	17,990	20,876	20,876	19,157 --1/
Subtotal, Construction of Facilities	26,806	27,643	39,436	39,436	26,282
Forest Road Construction	233,310	171,764	213,398	213,398	196,849
Forest Trail Construction	7,379	14,671	13,777	13,777	12,643 --1/
Construction of Roads by Timber Purchaser (PCP) --2/	(97,899)	(119,588)	(125,367)	(125,367)	(125,367)
Mt. Elden Work Center	300	0	0	0	0
Less Rec & Trail Const. financed by receipts (DMRF)	0	0	0	0	(31,000)
TOTAL, CONSTRUCTION	267,195	214,078	266,611	266,611	203,974
HIGHWAY CONSTRUCTION - MOUNT ST. HELENS NVM	9,915	0	0	0	0
LAND ACQUISITION (LWCF):					
Acquisition Management	3,286	4,181	4,379	4,379	3,900
Acquisitions	49,030	44,895	0	0	0
TOTAL, LAND ACQUISITION (LWCF)	52,236	49,076	4,379	4,379	3,900
ACQ. OF LANDS FOR NF SPECIAL ACTS	966	966	1,018	1,018	966
ACQ. OF LANDS TO COMPLETE LAND EXCHANGES	1,573	990	335	335	335
MISCELLANEOUS TRUST FUNDS	27	98	96	96	98
RANGE BETTERMENT FUND	3,007	3,692	3,875	3,875	3,875
OPERAT. & MAINT. OF RECREATION FACILITIES (DMRF)	0	0	0	0	31,000
YOUTH CONSERVATION CORPS	(1,000)	(1,000)	0	0	0
TIMBER SALVAGE SALES --3/	0	37,000	0	0	0
TONGASS TIMBER PROGRAM --4/	(45,815)	(34,275)	48,699	48,699	48,693
TOTAL, APPROPRIATED FUNDS	1,720,162	1,761,175	1,838,748	1,747,413	1,689,354

--1/ Proposed to be financed by Operation and Maintenance of Recreation Facilities.
--2/ $0 was authorized. In FY 1987, $97,898,500 of carryover authority was used an an estimated $119,500,000 will be used in FY 1988.
--3/ In FY 1988, an additional $37 million was appropriated for salvage sales due to severe 1987 forest fires.
--4/ Permanent appropriation in FYs 1987 and 1988; annual appropriation in FY 1989. Shown as an annual appropriation in the Request to Department and to OMB for comparability.

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USDA - FOREST SERVICE
ITEM 8 -- BUDGET REQUEST HISTORY TABLE

FY 1989 - DESCRIPTION -- EXPANDED VERSION		FY 1987 FINAL	FY 1988 APPROP.	FY 1989 REQUEST TO DEPARTMENT	FY 1989 REQUEST TO OMB	FY 1989 REQUEST TO CONGRESS
PERMANENT APPROPRIATIONS, WORKING FUNDS						
Expenses, Brush Disposal		61,214	54,438	59,752	59,752	54,680
Licensee Programs: Woods/Smokey		87	189	189	189	189
Restoration of Forest Lands & Improvements		183	188	187	187	187
Timber Roads, Purchaser Elections, FS (PEP)	--1/	15,434	21,837	9,837	9,837	9,837
Timber Salvage Sales		18,137	24,582	21,888	21,888	27,888
Tongass Timber Supply Fund	--2/	45,815	45,379	(48,699)	(48,699)	(48,699)
Road and Trail 10% Fund		(77,979)	(83,878)	(85,118)	(85,118)	(85,118)
Operation and Maintenance of Quarters		5,738	5,388	5,869	5,869	5,869
Subtotal, Working Funds		146,688	131,956	97,682	97,682	97,682
PERMANENT APPROPRIATIONS, PAYMENTS TO STATES:						
Payment to Minnesota		537	716	716	716	716
Payment to Counties, National Grasslands		8,956	9,641	10,929	10,929	10,929
Payments to States, National Forest Fund		203,550	304,025	294,788	294,788	294,788
Subtotal, Payments to States		213,043	314,382	306,433	306,433	306,433
TOTAL, PERMANENT APPROPRIATIONS		359,643	465,438	404,835	404,835	404,835
COOPERATIVE WORK, FOREST SERVICE (Trust Fund)						
Cooperative Work, K-V:						
KV Reforestation		91,494	114,123	114,832	114,832	114,832
KV Timber Stand Improvement		28,891	31,131	34,943	34,943	34,943
KV Other		77,110	55,453	55,170	55,170	55,170
Subtotal, Cooperative Work, K-V		196,695	200,707	204,145	204,145	204,145
Cooperative Work, Other		57,324	49,662	63,603	63,603	63,603
TOTAL, COOPERTIVE WORK, FOREST SERVICE		254,019	250,369	267,748	267,748	267,748
REFORESTATION TRUST FUND		31,196	30,000	30,000	30,000	30,000
TOTAL, REGULAR FOREST SERVICE		2,365,820	2,586,982	2,532,531	2,449,196	2,311,137

--1/ Does not reflect rescission of unobligated balances of 930 million in FY 1987 and 975 million in FY 1988 since these rescissions did not impact the program.
--2/ Permanent appropriation in FYs 1987 and 1988; annual appropriation in FY 1989.

4. Question: Would you provide for the record a table by Forest Service appropriations accounts indicating--

   a. any assumptions regarding carryover of fiscal year 1988 appropriations into fiscal year 1989?

   b. any proposed or anticipated supplemental appropriations?

   Answer: We assume a normal carryover in our two-year and no-year appropriations. No supplementals are proposed.

5. Question: Would you provide for the record a list of any Forest Service program assumptions in the President's proposed budget that require legislation? In each case, would you--

   a. provide a statement of purpose;

   b. provide the proposed language (if available) or indicate if, or when, the Administration intends to transmit such language to the Congress; and

   c. indicate whether, in the judgement of the Administration, such legislation would be sought from the Energy and Natural Resources Committee or as a rider on an appropriations act.

   Answer: The information follows:

Authorizing Legislation

RECREATION USER FEES

Background

During the past several years, there has been considerable discussion about opportunities to close the gap between Forest Service costs of providing recreation to the public and the amount of fees collected from recreation users. A variety of legislative remedies have been proposed.

The primary authority for collecting recreation fees on the National Forest System is the Land and Water Conservation Fund Act of 1965, as amended. Under this Act, the Forest Service collects recreation user fees for campsites which meet specified standards for boat launching sites with mechanized boat lifts and for other specialized recreation sites, facilities, equipment, and services. Fees are not charged for entrance to any national forest.

The Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) amended the Land and Water Conservation Act to authorize a special account for recreation user fees. The funds deposited in this account are authorized to be available for appropriation for resource protection, research, interpretation, and maintenance activities at recreation areas.

Recreation special uses, such as ski areas and recreation residences, also generate recreation-related revenue. These funds are collected under the Organic Act of 1897 and Occupancy Permits Act of 1915 and are deposited in the Treasury.

The FY 1989 Budget proposes that $31.8 million from the special account be used for national forest recreation construction. Recreation fees authorized by the Land and Water Conservation Fund are estimated to be $8.7 million and are proposed for appropriation. Legislation would be necessary to allow the funds collected from special uses to be used for this purpose.

The legislative proposal is expected to be completed in mid-May and will be forwarded to the Energy and Natural Resources Committee.

6. Question: In the case of certain Forest Service programs and activities which receive offsetting fees, collections, etc., implementation of the Gramm-Rudman-Hollings Act would sequester budgetary resources on the basis of gross, rather than net, budgetary resources. Would you provide for the record--

a. a list of those programs or activities within the Forest Service that receive offsetting fees, collections, etc. (whether directly or subject to appropriations);

b. an indication if it is proposed to change the treatment of offsetting receipts;

c. a description of such program or activity, including an indication of whether such fees, collections, etc., are for services provided for others (either Federal agencies or others); and

d. an analysis of whether the sequester of such budgetary resources may inhibit the provision of such services provided for others.

Answer: Excerpts from the 1989 Budget Appendix are attached for those accounts that receive offsetting collections. The excerpts include the program description and a breakdown between Federal and non-Federal offsetting collections.

There is no proposal to change the treatment of offsetting collections.

The sequester of such budgetary resources are not expected to inhibit the provision of services provided for others.

issues that affect cooperatives. Data on membership, business volume, and financial condition are collected to detect changes in the structure, operation, and growth trends of cooperatives.

Object Classification (in thousands of dollars)

Identification code 12-3000-0-1-352		1987 actual	1988 est.	1989 est.
	Personnel compensation:			
11.1	Full-time permanent	2,460	2,497	1,566
11.3	Other than full-time permanent	85	88	
11.5	Other personnel compensation	41	40	
11.9	Total personnel compensation	2,586	2,625	1,566
12.1	Civilian personnel benefits	319	356	216
13.0	Benefits for former personnel	2		
21.0	Travel and transportation of persons	142	155	70
22.0	Transportation of things	7		
23.2	Rental payments to others	2	2	
23.3	Communications, utilities, and miscellaneous charges	163	165	110
24.0	Printing and reproduction	67	40	10
25.0	Other services	1,019	1,182	300
26.0	Supplies and materials	34	40	10
31.0	Equipment	75	45	5
99.0	Total obligations	4,416	4,611	2,303
	Personnel Summary			
	Total number of full-time permanent positions	64	64	45
	Total compensable workyears: Full-time equivalent employment	63	63	45

FOREST SERVICE

Federal Funds

General and special funds:

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for [liquidation of obligations made] *reimbursement to other appropriation accounts from which funds were transferred* in the preceding fiscal years [pursuant to 16 U.S.C. 556d] for forest firefighting and emergency rehabilitation of National Forest System lands, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", [$1,243,391,000] *$1,159,655,000*, of which [$296,758,000] *$138,216,000* for reforestation and timber stand improvement, cooperative law enforcement, firefighting, and maintenance of forest development roads and trails shall remain available for obligation until September 30, [1989] *1990*. *(7 U.S.C. 1010-12, 2201, 2250; 16 U.S.C. 471a-543i, 556d, 594, 670a(h), 1601-14; 30 U.S.C. 601-604; 611-614; 43 U.S.C. 1181h-j, 1241-43, 1901-08; Public Law 96-487; Public Law 99-478; Department of the Interior and Related Agencies Appropriations Act, 1988.)*

Program and Financing (in thousands of dollars)

Identification code 12-1105-0-1-302		1987 actual	1988 est.	1989 est.
	Program by activities:			
	Direct program:			
00.01	Land and resource protection	480,442	491,840	383,934
00.02	Renewable resource management and utilization	381,801	521,716	500,385
00.03	General administration	257,708	268,660	275,336
00.91	Total direct program	1,119,951	1,282,025	1,159,655
01.01	Reimbursable program	200,173	42,478	34,400
10.00	Total obligations	1,320,124	1,324,503	1,194,055
	Financing:			
	Offsetting collections from:			
11.00	Federal funds	−151,791	−32,711	−25,085
13.00	Trust funds	−48,382	−10,267	−8,315
17.00	Recovery of prior year obligations	−304		
21.40	Unobligated balance available, start of year	−4,741	−38,634	
24.40	Unobligated balance available, end of year	38,634		
25.00	Unobligated balance lapsing	31,639		
40.00	Budget authority (appropriation)	1,185,148	1,243,391	1,159,655
	Relation of obligations to outlays:			
71.00	Obligations incurred, net	1,119,951	1,282,025	1,159,655
72.40	Obligated balance, start of year	144,291	32,498	148,746
74.40	Obligated balance, end of year	−32,498	−148,746	−139,159
77.00	Adjustments in unexpired accounts	−304		
90.00	Outlays	1,231,440	1,165,777	1,169,242

The 156 National Forests, 19 National Grasslands, and 18 land utilization projects located in 44 States, Puerto Rico and the Virgin Islands are managed under multiple use and sustained yield principles. The natural resources of timber, minerals, range, wildlife, outdoor recreation, watershed, and soil are utilized in a planned combination that will best meet the needs of the Nation, without impairing productivity of the land or damaging the environment. These management and utilization principles are recognized in the Multiple-Use Sustained-Yield Act of June 12, 1960 (16 U.S.C. 528-531).

Land and resource protection.—Provides for the protection and/or maintenance of National Forest System users, resources, lands and facilities, including roads and trails.

Renewable resource management and utilization.—Provides for the management and utilization of the timber, mineral, range, recreation, wildlife, watershed, and soil resources on National Forest System lands.

General administration.—This activity represents that share of the cost which contributes to the support of programs financed from National forest system, Construction, Forest research, State and private forestry, and Land acquisition appropriations.

MAIN WORKLOAD FACTORS

Description:	1987 actual	1988 est.	1989 est.
Area administered and protected (million acres)	191	191	191
Timber sales prepared and offered (billion board-feet)	11.5	11.5	11.2
Timber volume harvested (billion board feet)	12.7	11.8	12.2
Reforestation (thousand acres) (appropriated)	170	119	119
Timber stand improvement (thousand acres) (appropriated)	223	144	168
Minerals management (operating plans)	25,104	22,107	24,020
Landline location (miles)	5,250	4,104	4,960
Fuel treatment including hazardous (thousand acres)	345	329	258
Estimated number of visitor-days to national forests (millions) [1]	238	240	240
Wildlife habitat improvement (thousand acres)	94	66	44
Grazing use (millions AUM's permitted livestock)	8.9	8.9	8.8
Soil and water resource improvement (thousand acres)	10.4	6.9	5.3
Receipts (in thousands of dollars):			
National forests fund:			
Timber sales	786,345	791,000	806,000
Timber sales betterment	196,348	198,000	192,000
Minerals	10,676	15,000	15,000
Grazing	7,334	7,750	7,750
Recreation admission and user fees	30,550	31,000	32,000
Other	6,450	5,500	6,400
National grasslands and land utilization:			
Grazing	755	1,000	1,000
Minerals	36,012	37,000	42,000
Other	599	565	715
Oregon and California grant lands	71,653	74,000	74,000
Total receipts	1,004,742	1,103,665	1,126,865

[1] Including wilderness areas.

General and special funds—Continued

NATIONAL FOREST SYSTEM—Continued

Object Classification (in thousands of dollars)

Identification code 12-1105-0-1-302	1987 actual	1988 est.	1989 est.
FOREST SERVICE			
Direct obligations:			
Personnel compensation:			
11.1 Full-time permanent	450,500	463,309	475,221
11.3 Other than full-time permanent	85,472	80,251	80,126
11.5 Other personnel compensation	65,819	66,377	68,069
11.8 Special personal services payments	14,561	14,779	29,706
11.9 Total personnel compensation	625,360	630,816	661,122
12.1 Civilian personnel benefits	97,565	98,416	103,144
13.0 Benefits for former personnel	9,270	9,348	9,566
21.0 Travel and transportation of persons	39,925	36,549	39,536
22.0 Transportation of things	12,899	18,270	12,773
23.1 Rental payments to GSA	13,932	16,500	17,665
23.2 Rental payments to others	9,319	13,199	9,278
23.3 Communications, utilities, and miscellaneous charges	29,283	41,362	28,918
24.0 Printing and reproduction	2,668	3,684	2,583
25.0 Other services	196,217	280,750	196,783
26.0 Supplies and materials	49,238	69,740	48,758
31.0 Equipment	26,026	36,863	25,772
32.0 Land and structures	3,789	5,367	3,752
41.0 Grants, subsidies, and contributions	67	95	66
42.0 Insurance claims and indemnities	501	837	585
44.0 Refunds	85	120	84
99.0 Subtotal, direct obligations	1,118,894	1,202,925	1,150,655
99.0 Reimbursable obligations	200,173	42,470	34,400
ALLOCATION ACCOUNTS			
Personnel compensation:			
11.1 Full-time permanent	888		
11.3 Other than full-time permanent	304		
11.5 Other personnel compensation	4		
11.8 Total personnel compensation	1,196		
12.1 Civilian personnel benefits	129		
21.0 Travel and transportation of persons	248		
22.0 Transportation of things	97		
23.2 Rental payments to others	4		
23.3 Communications, utilities, and miscellaneous charges	4		
25.0 Other services	105		
26.0 Supplies and materials	47		
31.0 Equipment	17		
99.0 Subtotal obligations, allocation accounts	1,857		
99.9 Total obligations	1,320,124	1,324,503	1,194,055
Obligations are distributed as follows:			
National Forest System, Agriculture	1,318,267	1,324,503	1,194,055
Bureau of Land Management, Interior	1,857		

Personnel Summary

Direct:			
Total number of permanent positions	18,654	18,767	18,974
Total compensable workyears:			
Full-time equivalent employment	23,377	23,180	23,673
Full-time equivalent of overtime and holiday hours	2,714	2,195	2,242
Reimbursable:			
Total number of permanent positions	232	172	130
Total compensable workyears:			
Full-time equivalent employment	232	234	189
Full-time equivalent of overtime and holiday hours	97	98	79
ALLOCATION ACCOUNTS			
Total number of permanent positions	44		
Total compensable workyears: Full-time equivalent employment	48		

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, [$214,978,000] *$203,974,000*, to remain available until expended, of which [$27,643,000] *$7,125,000* is for construction and acquisition of buildings and other facilities; and [$186,435,000] *$196,849,000* is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205: *Provided*, That funds becoming available in fiscal year [1988] *1989* under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States[.]: *Provided further, That not to exceed $125,967,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers. (7 U.S.C. 2250; 16 U.S.C. 501, 532–538, 555b, 571c, 1241–51, 1601, 1643; 43 U.S.C. 1859; Department of the Interior and Related Agencies Appropriations Act, 1988.)*

Program and Financing (in thousands of dollars)

Identification code 12-1103-0-1-302	1987 actual	1988 est.	1989 est.
Program by activities:			
Direct program:			
00.01 Construction of facilities	28,657	25,481	7,125
00.02 Road and trail construction	219,671	231,055	196,849
00.03 Pollution abatement	1	1	
00.04 Land acquisition	12	10	
00.05 Mt. St. Helens timber salvage	1	1	
00.06 Mt. Eden work center	205	95	
00.91 Total direct program	248,547	256,643	203,974
01.91 Reimbursable program	2,498	3,200	2,900
10.00 Total obligations	250,045	259,843	206,874
Financing:			
Offsetting collections from:			
11.00 Federal funds	−1,850	−1,695	−1,536
14.00 Non-Federal sources	−1,648	−1,505	−1,364
17.00 Recovery of prior year obligations	−676		
21.40 Unobligated balance available, start of year	−22,553	−42,565	
24.40 Unobligated balance available, end of year	42,565		
25.00 Unobligated balance lapsing	1,312		
40.00 Budget authority (appropriation)	267,195	214,079	203,974
Relation of obligations to outlays:			
71.00 Obligations incurred, net	246,547	256,643	203,974
72.40 Obligated balance, start of year	91,164	108,579	145,708
74.40 Obligated balance, end of year	−108,579	−145,708	−159,218
78.00 Adjustments in unexpired accounts	−676		
90.00 Outlays	228,456	219,434	190,524

Construction of facilities—

Recreation facilities.—Provides facilities necessary to safely meet recreation demand without sacrificing environmental values and without unduly impinging upon other resource uses of the National Forests.

Other facilities.—Provides for construction and acquisition of fire, administrative, and other improvements and related facilities necessary to carry out National Forest and State and private forestry programs. Includes fire lookouts, offices, dwellings and barracks for employee housing, service, and storage buildings, insectories, tree nursery buildings, dams, and other forest resource management projects. Efforts to make buildings more energy efficient (retrofit) will be continued.

Research construction.—Provides for construction, alteration, and improvement of research laboratories and related facilities, and for procurement and installation of necessary initial equipment needed to put the facility into operating condition. Efforts to make research facilities more energy efficient (retrofit) will be continued.

Road and trail construction—

Road and trail construction.—Roads and trails are essential to the protection and management of the National Forest System, as well as providing access to

National Forest System areas for recreation and utilization of their resources. Of the revenues received annually from National Forest activities, 10 percent is being transferred to the General Fund with a comparable amount appropriated to the construction program for road and trail construction activities.

Timber purchaser construction.—Roads may be constructed and/or reconstructed by a timber purchaser who in turn receives credit against timber value as a reimbursement. These roads are those required within a timber sale area specifically for the removal of the timber, but which will remain on the National Forest development road system for resource management purposes after the timber sale contract is completed. (16 U.S.C. 535, 1608.)

Object Classification (in thousands of dollars)

Identification code 12-1103-0-1-302	1987 actual	1988 est.	1989 est.
FOREST SERVICE			
Direct obligations:			
Personnel compensation:			
11.1 Full-time permanent	75,440	67,836	63,510
11.3 Other than full-time permanent	7,761	6,889	6,736
11.5 Other personnel compensation	1,661	1,471	1,347
11.8 Special personal services payments	2,526	2,404	2,416
11.9 Total personnel compensation	87,388	77,800	74,009
12.1 Civilian personnel benefits	12,581	11,291	10,943
13.0 Benefits for former personnel	722	642	627
21.0 Travel and transportation of persons	3,586	4,043	2,749
22.0 Transportation of things	1,296	1,484	1,031
23.1 Rental payments to GSA	2,356	2,897	2,953
23.2 Rental payments to others	2,326	2,682	1,850
23.3 Communications, utilities, and miscellaneous charges	4,084	4,700	3,749
24.0 Printing and reproduction	561	647	446
25.0 Other services	66,491	76,663	53,058
26.0 Supplies and materials	7,364	8,722	6,017
31.0 Equipment	5,562	6,413	4,424
32.0 Land and structures	50,631	58,380	40,278
41.0 Grants, subsidies, and contributions	5	6	4
42.0 Insurance claims and indemnities	256	295	204
44.0 Refunds	114	134	92
99.0 Subtotal, direct obligations	245,445	256,843	203,974
99.0 Reimbursable obligations	3,498	3,298	2,900
ALLOCATION TO FEDERAL HIGHWAY ADMINISTRATION			
Personnel compensation:			
11.1 Full-time permanent	196		
11.3 Other than full-time permanent	1		
11.5 Other personnel compensation	1		
11.9 Total personnel compensation	198		
12.1 Civilian personnel benefits	16		
21.0 Travel and transportation of persons	34		
22.0 Transportation of things	14		
23.3 Communications, utilities and miscellaneous charges	3		
24.0 Printing and reproduction	3		
25.0 Other services	7		
26.0 Supplies and materials	4		
31.0 Equipment	7		
32.0 Land and structures	829		
99.0 Subtotal, obligations, Federal Highway Administration	1,104		
99.0 Total obligations	250,045	260,041	205,874

Personnel Summary

FOREST SERVICE			
Direct:			
Total number of full-time permanent positions	2,862	2,523	2,431
Total compensable workyears:			
Full-time equivalent employment	3,178	2,760	2,686
Full-time equivalent of overtime and holiday hours	52	45	44
Reimbursable:			
Total number of full-time permanent positions	73	71	68
Total compensable workyears:			
Full-time equivalent employment	32	79	76
Full-time equivalent of overtime and holiday hours	1	1	1
FEDERAL HIGHWAY ADMINISTRATION			
Total number of full-time permanent positions	6		
Total compensable workyears:			
Full-time equivalent employment	6		
Full-time equivalent of overtime and holiday hours	1		

Forest Research

For necessary expenses of forest research as authorized by law, [$135,510,000 of which $3,000,000 shall remain available until expended for competitive research grants, as authorized by section 5 of Public Law 95-307] *$129,279,000. (16 U.S.C. 1601-10, 1641-47; Public Law 95-465; Department of the Interior and Related Agencies Appropriations Act, 1988.)*

Program and Financing (in thousands of dollars)

Identification code 12-1104-0-1-302	1987 actual	1988 est.	1989 est.
Program by activities:			
Direct program:			
00.01 Fire and atmospheric sciences research	8,482	8,945	
00.02 Forest insect and disease research	22,741	23,533	
00.03 Forest inventory and analysis research	17,041	17,684	
00.04 Renewable resources economics research	4,589	4,977	
00.05 Timber management research	24,048	26,548	24,721
00.06 Watershed management and rehabilitation research	15,882	16,682	
00.07 Wildlife, range and fish habitat research	11,813	12,567	
00.08 Forest recreation research	2,534	2,712	
00.09 Forest products and harvesting research	18,570	19,860	18,748
00.10 Forest protection research			33,200
00.11 Resource analysis research			23,470
00.12 Forest environment research			29,000
00.13 Competitive grants		3,000	
00.91 Total direct program	126,110	136,508	129,279
01.01 Reimbursable program	11,329	12,300	11,600
10.00 Total obligations	137,647	148,788	140,879
Financing:			
Offsetting collections from:			
11.00 Federal funds	-10,627	-11,562	-10,905
14.00 Non-Federal sources	-796	-738	-695
21.40 Unobligated balances available, start of year		-903	
24.40 Unobligated balance available, end of year	903		
25.00 Unobligated balance restored	-386		
39.00 Budget authority	126,721	135,510	129,279
Budget authority:			
40.00 Appropriation	131,726	135,510	129,279
41.00 Transferred to other accounts	-5,005		
43.00 Appropriation (adjusted)	126,721	135,510	129,279
Relation of obligations to outlays:			
71.00 Obligations incurred, net	126,110	136,498	129,279
72.40 Obligated balance, start of year	22,198	28,449	35,158
74.40 Obligated balance, end of year	-28,449	-35,158	-41,673
90.00 Outlays	119,867	129,789	122,764

Research is conducted and disseminated through eight regional forest experiment stations and the Forest Products Laboratory and includes both in-house and extramural programs.

Timber management research.—Research is conducted to develop improved silvicultural alternatives and management guidelines to increase the productivity and multiple-use benefits of forest lands, maximize tree growth and quality, and maintain land productivity.

General and special funds—Continued

FOREST RESEARCH—Continued

Forest products and harvesting research.—Research is conducted to provide technology to harvest and utilize timber more efficiently and in ways that are environmentally acceptable, to improve the performance of wood products, and to expand opportunities for wood products exports.

Forest protection research.—Research is conducted to understand the impact of forest fires, atmospheric factors, insects, and diseases on forest and range ecosystems; to improve methods for preventing, predicting, controlling, and reducing the effects of wildfire, insects, and diseases, and for using fire for resource management; and to acquire basic knowledge to monitor and predict atmospheric effects on forests.

Resource analysis research.—Research is conducted to provide inventory information on forest resources; to determine the effects of economic and institutional forces on forest product markets and forest management strategies; and to improve methods of managing outdoor recreation and wilderness.

Forest environment research.—Research is conducted to provide knowledge needed to manage forests and range non-timber resources; including wildlife and fish habitats, watersheds, and forage.

For 1989, forest research will focus on basic research thus allowing the private sector to concentrate on developmental and applied research. Competitive research grants will be terminated.

Object Classification (in thousands of dollars)

Identification code 12-1104-0-1-302		1987 actual	1988 est.	1989 est.
	Direct obligations:			
	Personnel compensation:			
11.1	Full-time permanent	58,296	59,836	58,812
11.3	Other than full-time permanent	10,233	10,456	10,476
11.5	Other personnel compensation	308	322	324
11.8	Special personal service payments	2	3	1
11.9	Total personnel compensation	68,927	69,805	69,563
12.1	Civilian personnel benefits	9,375	9,494	9,461
13.0	Benefits for former personnel	123	125	125
21.0	Travel and transportation of persons	4,326	5,290	5,039
22.0	Transportation of things	646	790	753
23.1	Rental payments to GSA	1,669	1,977	2,000
23.2	Rental payments to others	197	131	125
23.3	Communications, utilities, and miscellaneous charges	3,670	4,498	4,285
24.0	Printing and reproduction	597	730	695
25.0	Other services	15,417	18,853	17,960
26.0	Supplies and materials	3,480	4,255	4,053
31.0	Equipment	4,999	6,113	5,823
32.0	Land and structures	157	192	183
41.0	Grants, subsidies, and contributions	12,666	14,270	9,110
42.0	Insurance claims and indemnities	6	7	7
44.0	Refunds	15	18	17
90.0	Subtotal, direct obligations	126,110	136,498	129,279
99.0	Reimbursable obligations	11,329	12,300	11,600
99.9	Total obligations	137,447	148,798	140,879

Personnel Summary

Direct:			
Total number of full-time permanent positions	1,865	1,880	1,847
Total compensable workyears:			
Full-time equivalent employment	2,305	2,297	2,282
Full-time equivalent of overtime and holiday hours	11	11	10
Reimbursable:			
Total number of full-time permanent positions	37	38	36
Total compensable workyears:			
Full-time equivalent employment	91	93	88
Full-time equivalent of overtime and holiday hours	1	1	1

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical [and financial] assistance to States, Territories, possessions, and others; and for forest pest management activities, [$76,469,000] *$34,781,000*, to remain available until expended, as authorized by law: *Provided*, That a grant of $2,800,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495[: *Provided further*, That notwithstanding any other provision of law, a grant of $6,400,000 shall be provided to the appropriate entity in the city of Kellogg, Idaho for construction of a gondola and shall be matched from other sources]. *(16 U.S.C. §101-§106, §109-§111; Public Law 95-495; Department of the Interior and Related Agencies Appropriations Act, 1988.)*

Program and Financing (in thousands of dollars)

Identification code 12-1105-0-1-302		1987 actual	1988 est.	1989 est.
	Program by activities:			
	Direct program:			
00.01	Forest pest management	27,479	51,980	28,111
00.02	Fire protection	15,990	14,017	3,870
00.03	Forest management and utilization	7,650	10,973	
00.04	Special projects	6,287	10,875	2,000
00.91	Total direct program	57,415	87,765	34,781
01.01	Reimbursable program	8,557	12,200	5,200
10.00	Total obligations	65,972	99,965	39,981
	Financing:			
	Offsetting collections from:			
11.00	Federal funds	−8,224	−11,725	−4,900
14.00	Non-Federal sources	−333	−475	−292
17.00	Recovery of prior year obligations	−9		
21.40	Unobligated balance available, start of year	−2,295	−11,296	
24.40	Unobligated balance available, end of year	11,296		
25.00	Unobligated balance lapsing	147		
39.00	Budget authority	66,504	76,469	34,781
	Budget authority:			
40.00	Appropriation	67,549	76,469	34,781
41.00	Transferred to other accounts	−995		
43.00	Appropriation (adjusted)	66,554	76,469	34,781
	Relation of obligations to outlays:			
71.00	Obligations incurred, net	57,415	87,765	34,781
72.40	Obligated balance, start of year	20,023	22,069	30,836
74.40	Obligated balance, end of year	−22,069	−30,836	−19,872
78.00	Adjustments in unexpired accounts	−9		
90.00	Outlays	55,360	78,998	45,745

Cooperative forestry assistance is provided to all the States, Puerto Rico, Virgin Islands, Guam, the Northern Mariana Islands and the Trust Territory of the Pacific to promote protection and management of forest lands.

Forest pest management.—Protects forest resources and processed wood from insects and diseases directly on National Forests and other Federal lands and in cooperation with States on non-Federal lands.

Fire protection.—Helps State forestry organizations to achieve fire protection efficiency through activities of national interest on non-Federal wildlands.

Forest management and utilization.—Improves management of non-industrial private forest resources; increases wood utilization; increases seedling production and nursery capacity of State tree nurseries; expands

State tree improvement programs; and provides management and planning assistance.

Special projects.—Assistance will be provided to Minnesota for forestry impacts of the Boundary Waters Canoe Area Wilderness.

For 1989, financial assistance to the States will be terminated and limited technical assistance will be provided. State forestry programs have matured sufficiently to justify reduced Federal assistance.

Object Classification (in thousands of dollars)

Identification code 12-1105-0-1-302	1987 actual	1988 est.	1989 est.
FOREST SERVICE			
Direct obligations:			
Personnel compensation:			
11.1 Full-time permanent	11,359	11,961	9,980
11.3 Other than full-time permanent	1,587	1,629	1,391
11.5 Other personnel compensation	382	393	314
11.9 Total personnel compensation	13,328	13,978	11,685
12.1 Civilian personnel benefits	1,803	1,890	1,580
13.0 Benefits for former personnel	114	120	100
21.0 Travel and transportation of persons	2,856	4,785	2,252
22.0 Transportation of things	380	411	197
23.1 Rental payments to GSA	679	809	651
23.2 Rental payments to others	480	1,117	536
23.3 Communications, utilities, and miscellaneous charges	48	110	53
24.0 Printing and reproduction	629	1,437	688
25.0 Other services	7,311	16,707	7,998
26.0 Supplies and materials	1,445	3,302	1,581
31.0 Equipment	432	1,033	495
32.0 Land and structures	332	347	166
41.0 Grants, subsidies, and contributions	27,225	39,188	4,477
42.0 Insurance claims and indemnities	660	1,509	723
99.0 Subtotal, direct obligations	58,483	86,661	33,781
99.0 Reimbursable obligations	6,557	12,200	5,200
ALLOCATION TO THE DEPARTMENT OF THE INTERIOR			
Personnel compensation:			
11.1 Full-time permanent	324	384	352
11.3 Other than full-time permanent	229	260	236
11.5 Other personnel compensation	29	33	32
11.8 Special personal service payments	15	18	17
11.9 Total personnel compensation	597	695	637
12.1 Civilian personnel benefits	56	66	60
13.0 Benefits for former personnel	2	2	2
21.0 Travel and transportation of persons	14	17	15
22.0 Transportation of things	47	56	43
23.3 Communications, utilities, and miscellaneous charges	4	5	4
24.0 Printing and reproduction	3	4	3
25.0 Other services	150	188	171
26.0 Supplies and materials	32	62	56
31.0 Equipment	8	9	9
99.0 Subtotal, obligations, Department of the Interior	932	1,104	1,000
99.9 Total obligations	65,972	99,965	39,981
Obligations are distributed as follows:			
State and Private Forestry, Agriculture	65,040	98,861	38,981
National Park Service, Interior	303	354	324
Bureau of Land Management, Interior	136	142	127
U.S. Fish and Wildlife Service, Interior	19	23	21
Bureau of Indian Affairs, Interior	474	583	528

Personnel Summary

Direct:			
Total number of full-time permanent positions	398	484	342
Total compensable workyears:			
Full-time equivalent employment	473	488	415
Full-time equivalent of overtime and holiday hours	16	17	14
Reimbursable:			
Total number of full-time permanent positions	16	24	10
Total compensable workyears: Full-time equivalent employment	16	22	9
ALLOCATION ACCOUNTS			
Total number of full-time permanent positions	17	21	19
Total compensable workyears:			
Full-time equivalent employment	18	22	20
Full-time equivalent of overtime and holiday hours	1	1	1

Intragovernmental funds:

WORKING CAPITAL FUND

Program and Financing (in thousands of dollars)

Identification code 12-4605-0-4-302		1987 actual	1988 est.	1989 est.
	Program by activities:			
00.01	Operating expenses	65,931	65,065	69,537
00.02	Capital investment	24,283	28,048	30,216
10.00	Total obligations	90,214	93,113	99,753
	Financing:			
	Offsetting collections from:			
11.00	Federal funds	−82,806	−85,878	−92,311
14.00	Non-Federal sources	−5,442	−5,002	−4,889
21.98	Unobligated balances available, start of year: Fund balances	−71,533	−68,767	−66,534
24.98	Unobligated balances available, end of year: Fund balances	68,767	66,534	63,981
39.00	Budget authority			
	Relation of obligations to outlays:			
71.00	Obligations incurred, net	2,766	2,233	2,563
72.98	Obligated balance, start of year: Fund balance	35,583	34,311	36,544
74.98	Obligated balance, end of year: Fund balance	−34,311	−36,544	−39,007
90.00	Outlays	4,048		

The Working Capital Fund is a self-sustaining revolving fund which provides services to National Forests, research experiment stations, and when necessary, to other Federal agencies, and as provided by law, to State and private agencies and persons who cooperate with the Forest Service in fire control and other authorized programs.

The forestry related supply and support services include:

Equipment services which own, operate, maintain, replace, and repair common use motor driven and similar equipment. This equipment is rented to administrative units, that is, National Forests, research experiment stations, and other units, and in some cases to the other agencies, at rates which recover the cost of operation, repair and maintenance, management, and depreciation. The rates also include an increment which provides additional cash which, when added to depreciation earnings and the residual value of equipment, provides sufficient funds to replace the equipment.

Aircraft services which operate, maintain, and repair Forest Service owned aircraft used in fire surveillance and suppression and in other Forest Service programs. The aircraft are rented to National Forests, research experiment stations, and in some cases to other agencies, at rates which recover the cost of depreciation, operation, maintenance, repair, and improvements in the airworthiness of the aircraft. Aircraft replacement costs are financed from either appropriated funds or the Forest Service Working Capital Fund, or a combination of both.

Supply services operate the following common services:

Photo reproduction laboratories which store, reproduce, and supply aerial photographs, aerial maps, and other photographs of National Forest lands. The photographic reproductions are sold to National Forests, experiment stations, and others at cost.

Sign shops which manufacture and supply special signs for the National Forests for use in regulating traffic and as information to the public and other users of the National Forests. The signs are sold to National Forests and experiment stations at cost.

Subsistence which prepare and serve meals to Forest Service crews working in areas where adequate public restaurant facilities are not available.

Seed supply which provides tree seed for direct seeding or sowing in nurseries for the production of trees. Includes purchase or collection of cones, extraction of seeds, cleaning and testing, and storage and delivery. Operates in conjunction with tree nurseries.

Tree nurseries which operate forest tree nurseries and cold storage facilities for storage of tree seedlings. Tree seedlings are sold to National Forests, State foresters, and other cooperators at cost.

Object Classification (in thousands of dollars)

Identification code 12-4605-0-4-302		1987 actual	1988 est.	1989 est.
	Personnel compensation:			
11.1	Full-time permanent	16,736	17,545	18,886
11.3	Other than full-time permanent	4,020	4,212	4,537
11.5	Other personnel compensation	623	647	681
11.9	Total personnel compensation	21,379	22,404	24,104
12.1	Civilian personnel benefits	2,960	3,111	3,347
13.0	Benefits for former personnel	274	287	309
21.0	Travel and transportation of persons	583	596	638
22.0	Transportation of things	314	321	343
23.1	Rental payments to GSA	1,236	1,473	1,549
23.2	Rental payments to others	544	557	596
23.3	Communications, utilities, and miscellaneous charges	1,306	1,336	1,429
24.0	Printing and reproduction	9	9	10
25.0	Other services	12,310	12,594	13,475
26.0	Supplies and materials	21,605	22,103	23,651
31.0	Equipment	27,400	28,031	29,991
32.0	Land and structures	276	282	302
41.0	Grants, subsidies and contributions	5	5	5
42.0	Insurance claims and indemnities	4	4	4
99.0	Total obligations	90,214	93,113	99,753

Note.—Personnel totals are included with personnel totals of all other Forest Service programs.

TIMBER SALES SUPPORT

7. Question: How much money is proposed in FY 1989 for timber sales support from other resource groups? What do these funds pay for, and do the other resource programs actually benefit from these expenditures?

Answer: There is approximately $34 million of other resource support to the timber program. The funds are used to finance investigations of proposed timber sales to ensure that the timber sales are compatible with the particular resource objectives. Further, during sale harvest activities these monies are used to analyze the effects of the harvest as compared to those effects anticipated during the preparation phase.

Many of our resource management objectives for other resource areas are attained through the timber sale program. Monies expended by these resources go toward coordination of harvest activities to meet objectives needed for wildlife habitat diversity, fire management, soil and watershed rehabilitation, recreation improvement, and many other resource needs.

APPEALS

8. Question: To date, how many appeals have been filed on resales as a result of your response to the recent Ninth Circuit decision? Will you provide a summary of actions in response to your interim rule on resales?

Answer: To date we have in excess of 250 appeals which have been filed. We are currently in the process of reviewing these appeals and will respond in accordance with our newly issued regulations. Some of the appeals have been filed on non-existent sales and on sales which have been completed or partially operated. We will attempt to resolve these as rapidly as possible.

FIRE SALVAGE/REHABILITATION

9. Question: In March 1988 you will be providing us with your analysis of salvage and rehabilitation needs as a result of the 1987 fire season. Would you include in that report an assessment of your capability to increase the FY 1989 timber sales program in response to current market demand?

Answer: We will include an assessment of our capability to increase the FY 1989 timber sales program in our report on the 1987 fire season.

QUESTIONS SUBMITTED BY
SENATOR DALE BUMPERS

FOREST PLANS

10. Question: What is the linkage between forest land management plans and annual budgets?

Answer: Annual budgets are developed to be consistent with National goals and the overall economic state of the Nation. We prepare budgets which are consistent with the priorities contained in the Forest plans.

11. Question: How do the plans influence the budget you requested?

Answer: Each Region is developing a 3-year rolling budget program for implementing Forest plans. This program will be adjusted annually based on actual funding. Adjustments will be based on Forest plan objectives, accomplishments, actual costs, and actual budgets.

Much of the same information generated through long-range planning is used by the program budget process. However, the information for budgets is much more specific and focused on a 1-5 year time period. Activities and projects that cannot be implemented as scheduled in the Forest plan due to inconsistencies between forest plans and actual appropriations would be delayed or rescheduled.

12. Question: In general, the forest plans are calling for a decline in harvest levels. However, the sale level of 11.2 billion board feet the Administration is requesting is only slightly less than the 11.5 billion board feet level requested last year. Could you explain the inconsistency?

Answer: The sales level of 11.2 billion board feet proposed by the administration is well within the total allowable sale quantity of 12 billion board feet currently projected in the final and draft Forest plans. While some forests project decreases, most project increases. The final proposed timber sale quantity for a given fiscal year may vary from the allowable sale quantity for a number of reasons. Some factors include the national economy, including the current interest rate on long-term loans for housing; the number of housing starts; and the administration goal to optimize economic returns while limiting Federal outlays.

TIMBER SALES

13. Question: The Administration budget requests an increase of $28 million in timber sales administration and management to support a projected sales level which is declining. Could you explain?

Answer: The amount of funding requested for the timber sales program for FY 1989 is based upon the anticipated amount of timber sale volume to be offered and harvest administration.

This increase in funding is due to the adjustment from the timber salvage sales fund to appropriated timber sale administration and management; to program adjustments from reoffer to new sales; and to the increased workload resulting from appeals, litigation, and defaults.

The FY 1989 program has reduced the reoffer volume from 2.7 billion board feet (BBF) to 1.0 BBF and increased the new sales from 6.5 BBF to 9.1 BBF.

Also, in FY 1988, because of the fire salvage sale program, $20.4 million was shifted from appropriated funding (timber sales administration and management) to the timber salvage sale fund. The final allocation in the appropriations act reduced the harvest administration by an additional $1,721,000 and the inventory and stand examination by an additional $2,645,000.

14. Question: The Forest Service has been severely criticized in recent years regarding the amount of timber it sells at a price which does not fully cover its cost. The Forest Service's timber sale accounting system is now up and running and will hopefully give you a better idea of how much timber is below cost. How does the Forest Service plan to use the information it receives regarding below cost sales? Have you made any policy decisions about eliminating such sales?

Answer: The new accounting system "TIMBER SALE INFORMATION AND REPORTING SYSTEM" (TSPIRS) is being implemented and tested this year. We will not have data from this implementation phase until the end of FY 1989.

The system is designed to look at the total timber program for the forest, this includes more than just looking at costs and revenues. It addresses the net public benefit of the program for the forest, for a year. It does not include the necessary details to identify the net public benefit of a specific sale.

TSPIRS will provide another set of information that will be used in conjunction with the forest plan information as the basis for forest plan implementation. TSPIRS information will also indicate areas where improvements in cost efficiency and revenue can be made on a forest, and between forests. TSPIRS will reflect the annual cost, revenues and benefits of the forest program. Only after

several years of reporting will we be able to identify trends. The trend information will aid us in successful implementation of the forest plans.

No policy decisions have been made about eliminating "Below Cost Sales". TSPIRS information will be added to other information collected on forest plan implementation. This combined set of information would be used as the basis for any change in the sales level. Since there are many non-timber needs and outputs associated with a timber sale, TSPIRS information alone will not dictate elimination of sales.

15. Question: The Forest Service plans to sell 11.2 billion board feet and harvest 12.2 billion board feet. Last year harvest levels also surpassed sale levels. How much longer can the Forest Service continue to harvest more timber than it sells?

Answer: For the last three years timber harvest levels have exceeded the amount of volume sold. Harvest levels are erratic due to the cyclical nature of the housing market and have ranged from 12.3 BBF in 1976 to 6.7 BBF in 1982 to 12.7 BBF in 1987. At current harvest rates, purchasers are currently maintaining approximately 2 years of volume under contract.

At the current rate of harvest, compared to the proposed sales level, it would take 3-5 years before the amount of harvest would be severely curtailed due to the lack of volume under contract. With any down turn in the market, as long the administration continues to offer a consistent timber sales offer volume, additional buildup of volume under contract would take place. This would increase the volume available when good markets would return. The major objective is to maintain a consistent timber sale offer level so that purchasers can better plan their harvest needs for the cyclical nature of the timber market.

RECREATION

16. Question: The Forest Service has recently announced its "Recreation Initiative," an ambitious undertaking to help meet the increasing demands for recreation in this country. Given this commitment to recreation, could you explain why the Administration is requesting $5 million less this year for recreation?

Answer: Although the difference between the FY 1989 Base and the FY 1989 President's Budget is $5,570,000, the administration has actually increased it's request by almost $6,000,000 over the 1988 President's Budget. Part of this increase is for implementation of one of the first phases of the Recreation Initiative.

The Recreation Initiative was launched in response to the priorities set in the recently completed forest plans. A National Recreation Strategy was developed through which the agency intends to improve customer service and satisfaction through partnerships

with other agencies and private enterprise, employee training, and increased public awareness of multiple use management of public lands.

$3,000,000 of the increase over the 1988 President's Budget is for the challenge cost-share program. The cost-share program is one of the first steps toward implementation of the Recreation Initiative. The cost-share program involves Forest Service cooperation with a variety of partners to plan, construct, reconstruct, maintain or operate recreation sites and areas.

17. Question: Could you briefly describe the Forest Service's "Recreation Initiative"?

Answer: Across the nation, people expressed their concern about recreation management on the national forests through their involvement in the forest planning process. The forest plans now reflect this input and directs managers to increase their focus on this resource. To respond to this concern, we met with the general public, private recreation industry, special use permittees, and other interested parties to develop a National Recreation Strategy. The Strategy will set new direction for the management of recreation on the national forests in response to the public's concern.

It is a framework for launching innovation. The most important feature is that it will spur us to think more directly of the customers--the visitors to the national forests--and find out who they are, where they live, and what they want in a recreational experience today and tomorrow. Our mission, to care for the land and serve people, makes customer satisfaction imperative.

We will look for ways to stretch our budget dollars. We will actively seek both private and public partners to help us provide a wider variety of recreation experiences. We will nurture the relationships we have with cooperators, permittees and other organizations and search for more partners.

As an overall goal, we will integrate skills, research, technology, and resources to strengthen and round out the multiple use management of the National Forests.

18. Question: To what extent is the Forest Service emphasizing privatization?

Answer: The National Recreation Strategy does not propose "privatization" for the recreation program. The Forest Service intends to maintain both "ownership" and "control" of the forest recreation program by retaining complete administrative responsibility for these areas.

From a national perspective, as a part of the President's Management Improvement Program, the Department of Interior will conduct an independent study to determine the feasibility of establishing a series of pilot projects which will allow appropriate groups to obtain long-term leases to manage large tracts of multi-purpose land throughout the United States at nominal fees. The Department of Agriculture will conduct a similar study to determine if the program can be duplicated in the lands under its control. These studies will evaluate any legislative or regulatory prohibitions which may limit privatization of the lands as well as the public policy implications associated with the proposal.

19. Question: What effect do you think bringing in an assortment of entities to help manage the recreation resources could have on the quality of management?

Answer: The National Recreation Strategy will develop and improve our partnerships with private and governmental agencies to provide recreation opportunities on the National Forests. These entities will not be given the responsibility to manage the recreation resource. The agency will retain that responsibility, and strengthen its performance in multiple use management.

With the strategy's focus on encouraging and rewarding personal and professional excellence, the quality of management will improve.

20. Question: The Forest Service request does not budget any money for trail construction but instead relies on trail construction coming from recreation fees. Of the $31.8 million the Forest Service anticipates receiving from fees, $23 million comes from new fee legislation. How will trail construction be financed if fee legislation does not pass?

Answer: The administration has not proposed any alternatives for financing trail construction should the legislation not be enacted.

FISH AND WILDLIFE

21. Question: The budget for fish and wildlife management also decreases from current levels by about $5 million. Could you explain the proposed decrease in funding? Is it supported in the national forest plans?

Answer: While the 1989 Budget is a decrease of $4.9 million from the 1989 Base, it is a significant increase (over $7 million) from the 1988 budget request. Of the increase over last years budget, $5 million is for continuation of the challenge-cost share program.

The wildlife and fisheries program in the 1989 President's Budget will contribute towards supporting forest plans as it provides for initiation and completion of the high priority habitat capability projects that are included in the forest plans.

FOREST PLANS

22. Question: Many national forest plans are requesting budget levels far in excess of current levels of spending. Are those increases reflected in the Administration's budget request? If those plans are not fully funded, how do the forests adjust the plans to accommodate lower budget levels?

Answer: The funding level, as indicated by forest plans, is not fully reflected in the President's Budget, because the budget has to weigh and prioritize all of the various National needs and priorities within the overall economic condition of the country.

Each Region is developing a 3-year rolling budget program for implementing forest plans. This program will be adjusted annually based on actual funding. Adjustments will be based on National priorities, forest plan objectives, actual costs, and actual budgets. Activities and projects that cannot be implemented as scheduled in the plan due to budget restraints would be delayed or rescheduled.

STATE AND PRIVATE FORESTRY

23. Question: Consistently, the Administration requests large cuts in the state and private forestry programs. This year a 51% decrease is requested which would severely curtail many successful programs, particularly those that assist in the management of the nonindustrial private land base. Supply studies continue to show that the nation will become increasingly dependent on timber from the small private woodlot owner, particularly in the South. Could you explain why the Administration is requesting such a decrease in the funding of programs which will assist in providing such a vital portion of our nation's future timber needs?

Answer: Federal funding for assistance to States is eliminated in an effort to reduce the Federal deficit. It is anticipated that States will continue to fund cooperative forestry projects in accordance with their overall priorities.

CULTURAL RESOURCES

24. Question: I have been concerned for a number of years over proposed decreases in the cultural resource management budget. The Administration has again requested a budget for this area which shows a significant decrease. Could you explain where cuts will be made to accommodate this decrease?

Answer: The majority of the cultural resource work performed on National Forests involves resource inventories to ensure that proposed timber sales, minerals projects, and other ground disturbing projects will not damage historic or prehistoric resources. Reductions in the cultural resource program would first limit the accomplishment of non-project support work. Surveys of areas not scheduled for development such as wilderness, nominations to the National Register of Historic Places, evaluation of cultural resources, maintenance and stabilization of important historic properties, and law enforcement and public educational programs may be deferred, reduced or eliminated. However, within the available funding request, funding will be targeted to the highest priority needs.

Continued use of students, volunteers, and para-professionals for site inventory, excavation, evaluation, and visitor interpretation will augment the cultural resource program accomplishments.

25. Question: The Administration's budget request states that the "loss of cultural resources to vandalism, pot hunting, illegal digging, and theft in many parts of the country is a great concern". How much of the proposed decrease in funding would come from law enforcement activities?

Answer: Since little law enforcement funding has been available in previous cultural resource budgets, the relative change due to decreased FY 1989 funding would be minimal.

The reduction in cultural resource funding would mean that funding for special law enforcement services or for public awareness programs in cultural resources would be eliminated. Law enforcement personnel will document illegal digging and removal of artifacts from NFS lands, after the fact.

The funding for law enforcement programs that is included in other budget items would ensure that at least a base level of cultural resource law enforcement would be maintained on the National Forest System.

TONGASS TIMBER PROGRAM

26. Question: How much of a backlog of sold, but uncut timber exists on the Tongass National Forest? Why is it necessary to offer an additional 350 million board feet of timber for sale with such a backlog?

Answer: Volume under contract on the Tongass National Forest is approximately 670 million board feet. This equates to just less than 2 years normal cut on the forest. Harvest levels for FY 88 are expected to be in the area of 370 million board feet. The proposed program is necessary to assure a continuous supply of raw material.

TONGASS ROAD CONSTRUCTION

27. Question: The Forest Service is requesting an increase in the budget for new Forest Service road and bridge construction from about $6 million to $10 million - an increase of about 67%. Could you explain why the Forest Service is requesting such a large increase?

Answer: The Explanatory Notes displayed appropriated dollars for FY 1988. Carryover from FY 1986 and FY 1987 which is part of the total program for FY 1988 was not shown.

The additional details are as follows:

	FY 1987 Final	FY 1988 Appropriation Enacted to Date	FY 1989 Estimate
	(Dollars in thousands)		
Subtotal Roads & Bridges 1/	$ 12,157	$ 6,162	$ 10,299
Carryover:			
FY 1986 (set aside for Gramm Rudman Hollings Sequestration)		2,212	
FY 1987		5,640	
Total Road & Bridge Program	$ 12,157	$ 14,014	$ 10,299

1/ From page 8-24 of the 1989 Explanatory Notes.

The addition of carryover funds result in a total program for FY 1988 of $14,014,000 with 36.2 miles of construction and 9.6 miles of reconstruction. The construction dollars in the proposed program for FY 1989 is actually a 26 percent reduction from the total FY 1988 program.

28. Question: The Forest Service budget reflects a 47 percent increase in new road construction, from 359 to 528 miles. Reconstruction miles would increase 22 percent, from 979 to 1,197. Could you explain the necessity for such large increases in road building?

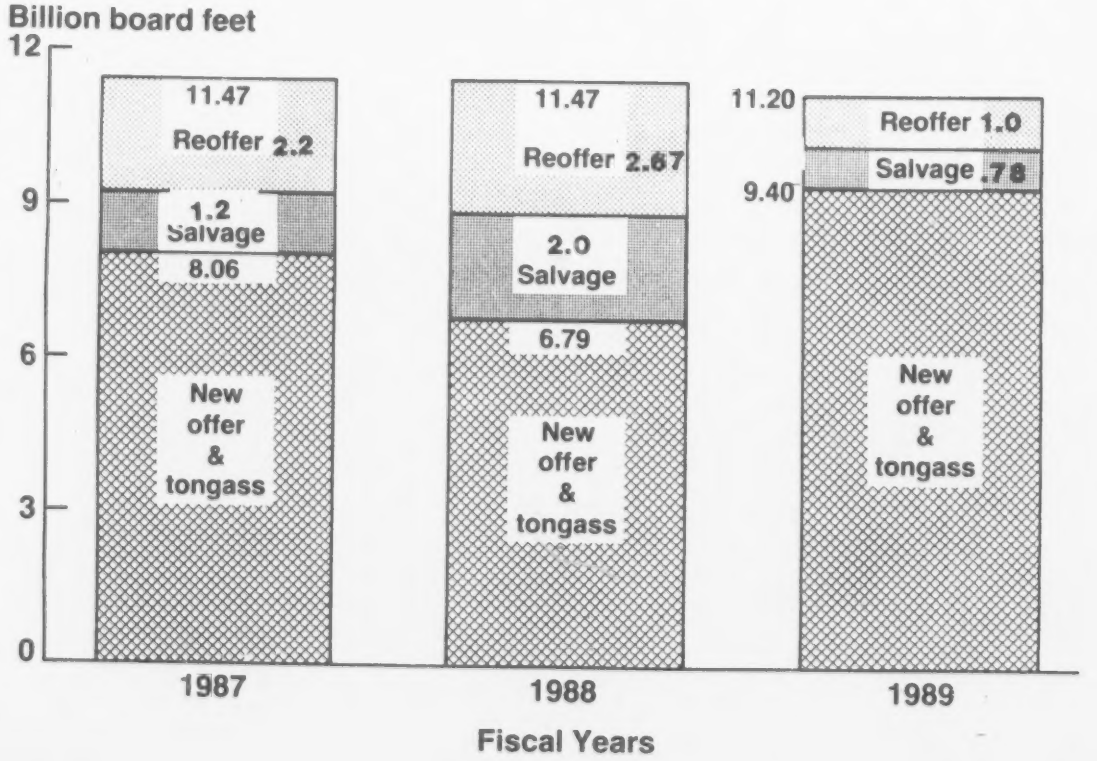
Answer: Roads are constructed only to help meet management objectives that have been developed through forest planning efforts. Although the road system serves a variety of uses, the majority of roads are built initially to provide access for harvesting National Forest timber. The miles of road to be constructed and volume of timber to be sold are two major parts of an integrated package, and one cannot be adjusted without having an effect on the other.

The reoffer of the buy back sales of 1987 and 1988 has been over 5 billion board feet, which has reduced the need for road construction. The 1989 program reflects a significant reduction in the reoffer, as we complete the selling of buyout timber. It now becomes necessary to increase the preparation of new sales for not only 1989 but for 1990 and 1991. This requires an increase of new road construction and reconstruction to support the sales program.

In addition, the 1989 program only represents the normal salvage sale program with the fire salvage. The difference in volume will come from the preparation of new sales which results in increased road construction.

Attached is a chart of the Timber Sale - Program Mix for FY 1987, 1988, and 1989.

Timber Sales — Program Mix



QUESTIONS SUBMITTED BY
SENATOR JEFF BINGAMAN

29. Question: Old growth forests in the Southwest apparently have not been extensively researched and are therefore poorly understood. I understand that we do not know the total acreage number of old growth within the national system. If we don't have a sense of where these forests are and what percentage of the total forest lands they represent, then the remaining old growth is subject to potentially destructive practices such as logging, etc.

I think we have the potential for a real problem here - the liquidation of our old growth forests. I think we need to look into this issue and see if something can be done so that we can maintain this important heritage for future generations.

Can you provide me with a map detailing the sections of old growth forests in New Mexico?

Answer: At this time there are no maps available showing the location of all old growth stands in New Mexico. The forests are currently in the process of mapping old growth stands as they carry out stand examinations on a site specific basis over the next several years. This information is being correlated with the acres of old growth stands identified in the forest plans as being unavailable for timber harvest. Consequently, old growth stands will be retained at the appropriate level needed to meet the objectives of the approved forest plans.

30. Question: I know the Forest Service has looked closely at the potential acquisition of a tract of land in the Sandia Mountains Foothills in Albuquerque, New Mexico called the Rounds Estate. The city has already committed to contribute one-half of the costs of acquiring this property. The total cost is approximately $8.5 million, with the Federal share of $4.25 million. There is strong support in the delegation for this acquisition in the State. It is an area threatened by development if not acquired in the future. I do not see any provision for funds for new acquisition.

Will the Forest Service consider this acquisition in light of its past interests?

Answer: The 325 acre Rounds Estate is valuable for open space purposes and could be held by the Forest Service or the City. Our efforts, however, to cooperate with the city and acquire the property through two different land exchange proposals have failed. We have not budgeted funds for land purchase for a number of years and currently have no available funds to help in the purchase of this property.

QUESTIONS SUBMITTED BY
SENATOR PETE DOMENICI

31. Question: The proposed budget for State and Private Forestry is 51% less than in 1988. This will create a dramatic reduction in the ability of New Mexico to fulfill its responsibilities for fire suppression, insect and disease control, urban forestry, and forestry incentive programs on 39 million acres of forest land. The New Mexico Division of Forestry would have to release nearly 20% of its employees.

Has the Forest Service projected what the overall effect of this budget reduction would have on the forest lands across the country? What would be the loss of resource value? Would funds be available for the Forest Service to enter into special agreements with those States that would be significantly impacted to help relieve or minimize some of the adverse effects?

Answer: Where Federal funding is reduced or eliminated, the individual States will determine whether to continue these projects based on their own priorities and budget constraints, therefore, the Forest Service can not determine program impacts or estimate loss of resource values. No funds have been identified which would allow the Forest Service to enter into special agreements to offset projected impacts of reduced funding.

CONSTRUCTION BACKLOG

32. Question: There is a large backlog of FA&O and Recreation construction needed on National Forest System lands. In New Mexico, the proposed budget would allow about 10% of Forest Service identified construction needs.

Does the Forest Service expect to complete these needed construction projects? What are projected resource losses as a result of not completing these projects? How will delivery of services be affected?

Answer: The Forest Service will address the highest priority needs, within available funding, to limit resource losses.

In the worst cases, there could be environmental degradation, such as soil erosion or air and water pollution. In other cases, recreation facilities may need to be closed, thereby increasing the burden on other available facilities or reducing forest recreation use.

For recreation facilities, delivery of services will be affected by the lower quality of recreational experiences (more crowded areas, noise pollution, fewer choices,etc).

For FA&O facilities, delivery of services will be reduced as a result of substandard facilities and high cost leased facilities which do not get replaced. The high maintenance costs of substandard facilities and high lease costs will reduce funding available for service delivery activities.

GILA TROUT

33. Question: Recovery of the endangered Gila trout on the Gila National Forest is a joint effort between the Forest Service and others. To date, the habitat of this species has been expanded and it appears on its way to being removed from the protected list.

Will funds be available for continuation of this project?

Answer: Funding will be available for conducting high priority habitat work, which should continue our efforts in delisting the Gila trout. This work is primarily eradication of competing fishes and enlarging wintering pools where the Gila trout exists.

QUESTIONS SUBMITTED BY
SENATOR MALCOLM WALLOP

TIMBER SALES

34. Question: The Forest Service will reduce its timber sales program from 11.5 billion board feet in FY 1988 to 11.2 billion board feet in FY 1989.

How much of this reduction is the direct result of Forest Plans and how much is budget driven?

Answer: The volume of timber offered for sale in a given year is due to various factors. The indicated reduction is due primarily to budget considerations and National needs, and not the new Forest plans.

35. Question: Do you anticipate a reduction in timber sales on the Bridger-Teton National Forest in FY 1989 that is less than that committed in the draft Forest Plan?

Answer: The Bridger-Teton National Forest timber sale program for FY 89 is planned at 13.9 million board feet. This is 2.0 million board feet less than indicated in the draft Forest Plan.

RECREATION USER FEES

36. Question: The Forest Service anticipates that $31.8 million in recreation user fees will be collected in FY 1988. With appropriate legislation, these funds would be available for construction of recreation facilities and trail in FY 1989.

Are these user fees simply off-setting regular appropriations, or are they supplemental funds?

Answer: The $31.8 million is an off-set to regular appropriations because these are not new user fees. They are existing fees that would be redirected to the existing recreation program.

RESEARCH AT LARAMIE, WYOMING

37. Question: The Forest Service will reduce its research program at Laramie, Wyoming in FY 1989. How much of a reduction is proposed?

Answer: The FY 1989 President's Budget for the unit is $314,000. This is $91,000 below the FY 1989 Base, and $87,000 below the 1988 Appropriations.

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MINERALS

38. Question: Unprocessed mineral cases will increase from 1,571 in 1987 to 5,000-6,000 cases in 1989.

What are the factors leading to this anticipated increase? What needs to be done so that you can reduce this growing backlog?

Answer: The number of unprocessed mineral cases is expected to increase to approximately 4,600 at the end of FY 1988 and to approximately 5,800 at the end of FY 1989. The increase in unprocessed cases is basically a function of incoming work flow which tends to be cyclic. During periods of significantly increasing workloads, such as that anticipated in FY 1988 and 1989 in the locatable minerals program, the unprocessed cases rise slightly. This is not considered to be a problem, particularly in the context of the Forest Service processing about 25,000 cases per year.

LIVESTOCK GRAZING

39. Question: Grazing of domestic livestock could return $8.8 million to the U.S. Treasury in FY 1989. In addition to the revenues, you indicate that there are benefits to wildlife, both game and nongame species, soil and water quality, and watershed protection through range vegetation management activities. However, the FY 1989 budget shows a decrease in the number of permits expected.

Why isn't the agency able to maintain current livestock grazing levels?

Answer: The decline in permitted grazing use since FY 1985 is primarily a reflection of forest plan implementation. As implementation of forest plan standards and guidelines for Range continues, adjustments in stocking rates of domestic livestock will occur. Where decreases are needed, the downward adjustments are made through revisions to term grazing permits. We expect to see a continued slight decline over the next few years in permitted AUM's, reflecting these adjustments.

In 1986, to recover the total cost of livestock programs on the National Forests in the 16 Western States, it would have been necessary to collect $3.57 per AUM. This compares to a grazing fee of $1.35 per Animal Month. On an AUM basis, the fee would have been $1.62. However, this value does not consider benefits to wildlife, both game and nongame species, soil and water quality, and watershed protection, resulting from range vegetation management activities.

QUESTIONS SUBMITTED BY
SENATOR DANIEL J. EVANS

COLUMBIA RIVER GORGE

40. Question: The budget request does not specifically delineate the budget allocated for the development of the Columbia River Gorge National Scenic Area. Can you provide details for me as to what funding is needed for the operation and development of the Columbia River Gorge National Scenic Area.

Answer: The operation and maintenance needs of the Columbia River Gorge for FY 1989 are $1,847,000. The needs are proposed to be financed within the total funding available to the Region.

41. Question: Additionally, the budget request contains almost no funding for land acquisitions anywhere in the National Forest System. Can you provide for me an outline of: how many properties have been offered to the Forest Service for acquisition in the Gorge, how many of those properties have been acquired, how many hardship cases have been acquired, how many hardship cases remain to be acquired, which properties they are and what the approximate value of those properties is?

Answer: 281 properties have been offered to the Forest Service for acquisition in the Gorge. Of this amount, 25 properties, valued at $3,458,500 and totalling 2,823 acres, have been acquired.

14 of the 25 properties acquired were hardship cases. 145 cases identified to date as hardship cases remain to be acquired.

Following is a list of the remaining hardship properties and their approximate values:

Offers Accepted:	Name	Acres	Estimated Value
	Anderson	100.45	75,000
	Leick	20.00	38,000
	Haskins	20.00	22,000
	Greene	10.22	55,000
	Webberly	11.08	33,000
	Andrews	10.00	45,000
	Narkiewiekz	10.11	45,500
	Warren	40.00	87,000
	Perry-Scenic Easement	63.00	200,800
	Stovenor-Scenic Easement	82.00	156,500

Offers Outstanding:	Name	Acres	Estimated Value
	Koester	28.00	27,500
	Orinda Foundation	34.95	94,000
	Rheinehart*	60.00	325,000
	Parkins	12.30	18,000
	Nolan	2.50	15,500
	Pitner	5.00	54,000

*being reappraised as a Scenic Easement

Appraisals being reviewed:			
	Demming (scenic easement)	5.00	34,000
	LaBelle	10.00	17,500
	Short	5.00	21,000
	Campbell	5.00	17,500
	Heaney (10 parcels)	60.00	225,000

Being appraised (Assume $2200 per acre):			
	Thompson (2 parcels)	265.00	583,000
	Fine	10.00	22,000
	Johnson	10.30	22,700
	Stump	39.78	87,500
	Mossman	10.00	22,000
	Roberts	10.00	22,000
	Schnell	16.00	32,500
	Gates	10.00	22,000
	Morgan	17.00	37,400
	Jones	23.50	51,700
	Cook	56.00	123,200
	Smith	10.00	22,000
	Meresse	3.00	6,600
	Boyd	20.00	44,000
	Kokensparger	5.00	11,000
	Anderson	6.80	15,000
	Kelley	5.00	11,000
	Rice	4.40	9,700
	MacFarlane	2.00	4,400
	Clouse	20.00	44,000
	Royce	79.38	174,600
	Kirby	28.15	61,900
	Bates	5.00	11,000
	Crittendon	5.12	11,300
	Harmon	80.00	176,000
	Johnson	2.95	6,500
	Berthold	15.00	33,000
	Smith	2.94	6,500
	Walters	5.00	11,000
	Lauterback	150.00	330,000

Scenic Easements:	Name	Acres	Estimated Value
	Hall	40.00	88,000
	Lawson	6.90	15,200
	Heaney	20.00	44,000
	Thompson	42.00	92,400
	Yule	20.00	44,000
	Carlson	62.00	136,400
	James	109.00	239,800

In addition, a total of 88 hardship cases have been identified for which we have not yet determined acreage or estimated value. We expect these cases to average about 10 acres each with a value of about $22,000 each. Following is a list of those cases:

J. Collins	E. Merritt	F. Haag
J. Spink	K. Siemieniec	E. Walters
P. Zilka	C. Strom	C. Fahy
C. Smith	T. McVie	M. Gregory
F. Windust	K. Johnson (2nd-Batch)	
T. Aronson	M. Thielman	L. St.Martin
J. Davis	J. Kenney	D. Baldwin
A. McDonald	B. Peterson	J. Martin
N. Anderson	P. Peterson	J. Penners
C. Senn	D. Capps	J. Ziegler
High Valley Corporation	M. Kreps	E. Carlson
R. Balholm	C. Dykeman	Tjon Financial
R. Rudhe	J. Piovanelli	R. Fox
R. Hasley	C. Hartlow	R. Jones
R. Jolley	A. Hoepner	D. Gibbons
E. Ursin	E. Cuda	G. Phillips
W. Lilly	S. Thompson	A. Myszkowski
F. Nishimoto	W. Lauterbach	J. Grisso
E. Beardsley	S. James	A. Floyd
J. Fabish	L. Popp	P. Smith
P. Leamy	A. Walker	J. Kornmann
K. Martin	C. Lance	A. Strode
S. Jones	R. McCarthy	K. Mahn
R. Phirffer	G. Stamps	G. Tucker
R. Thorton	M. Roether	J. Williams
R. Daniels	E. Anderson	R. Shuman
A. Chanda	J. Canon	V. Welsch (2 parcels)
G. Robbins	R. Disdier	P. Galligan
W. Wyatt	R. Mortenson	R. Giering
Miller Island		

Total: 88 cases 880 acres (est.) $1,936,000 (est.)

42. Question: I would also like a listing of all the properties that remain to be acquired in the Gorge, in order of priority of their importance for their contribution to the Scenic Area and what the approximate cost of each acquisition is?

Answer: In addition to the hardship cases listed above, the following properties remain to be acquired, listed in approximate order of priority (although all such acquisitions have equal priority).

Name	Acres	Estimated Value
Mt. Zion	28	125,000
Price/Franz	211	315,000
Jeemtegaard-SE	166	201,000
Jeemtegaard-II	150	195,000
Delschneider	269	150,000
Rizor	60	40,000
Jung Trust	78	393,000
Grothe	158	225,000

There are another 100 plus offers yet to be classified as to size, value and priority. Additional offers are received daily. When the recreation and management planning for the Gorge is completed we will have a better idea of the properties to be purchased.

43. Question: I would also appreciate an update on the status of the land exchanges authorized in the Act: at what stage are negotiations, have any been completed, how many remain to be completed?

Answer: A total of 13 land exchange proposals are currently in various stages of processing. None of these cases have been completed and there are no other proposals. A summary of the current cases follows:

Boise Cascade. Non-Federal land is included in an existing exchange on the Siuslaw National Forest. The candidate land is located on the same Forest.

Broughton Lumber Company. The statement of intent has been executed. The exchange includes 1,404 acres of non-Federal land and 1,013 acres of candidate land. The property is scheduled for cruise and appraisal during 1988.

Cavenham Forest Industries. The statement of intent has been executed. The exchange includes 3,914 acres of non-Federal land and 2,965 acres of candidate land. The property is scheduled for cruise and appraisal during 1988.

Frank Lumber Company. The statement of intent has been executed. The exchange includes 488 acres of non-Federal land and 640 acres of candidate land. The property is scheduled for cruise and appraisal during 1988. The mineral examination has been completed on the exchange lands.

Lee/Hull. The statement of intent has been executed. The exchange includes 40 acres of non-Federal and 40 acres of candidate land. Mineral examination has been completed.

Lenske/Smith. We are currently negotiating a statement of intent. The exchange involves 1,765 acres of non-Federal land and 1,920 acres of candidate land.

Longview Fibre Company. The statement of intent has been executed. The exchange includes 2,172 acres of non-Federal land and 3,543 acres of candidate land. The property is scheduled for cruise and appraisal during 1988.

Reforestation General Contractors, Inc. The statement of intent has been executed. This transaction consists of two adjoining landowners utilizing a timber consulting firm to facilitate an exchange. The exchange includes 404 acres of non-Federal land and 313 acres of candidate land. Mineral examination has been completed. The property is scheduled for cruise and appraisal during 1988.

SDS Company. The statement of intent has been executed. The exchange includes 1,068 acre of non-Federal land and 5,207 acres of candidate land. The property is scheduled for cruise and appraisal during 1988.

Thayer. The statement of intent has been executed. The exchange includes 111 acres of non-Federal land and 68 acres of candidate land. Mineral examination has been completed. Cruise and appraisal work is currently being contracted.

Girl Scout Council. The Council proposes to exchange 790 acres of non-Federal land for an equal value of candidate land. Another 120 acres will be purchased from the Council. A conservation easement will be acquired on another portion of Council property on which improvements are located.

We are assisting BLM and Hood River County with an exchange that does not involve candidate lands, but will acquire approximately 400 acres within the Special Management Areas.

Approximately 4,000 acres of candidate lands are being acquired by exchange, offsetting lands for the Washington DNR in Sultan Basin on the Mt. Baker-Snowqualmie NFs.

MOUNT ST. HELENS NATIONAL VOLCANIC MONUMENT

44. Question: If the operational needs of the Mount St. Helens National Volcanic Monument were fully funded, what would be the Monument's requirements for operation and maintenance of the Forest Service's facilities, for recreation, administrative, road and trail construction for 1989?

Answer: The FY 1989 President's Budget includes $1,511,000 for the Mount St. Helens National Volcanic Monument.

REOFFERED SALES

45. Question: Subject to recent court rulings on the adequacy of the environmental analysis for reoffered sales in Region 6 resulting from the Timber Contract Relief Act, the Forest Service promulgated a ruling outlining a process for refiling appeals on reoffered sales. Can you give me a summary of how many appeals have been filed on reoffered sales in Washington state and an approximation of the time frame that will be required by the Forest Service for resolving those appeals?

Answer: To date we are not aware of any appeals filed for sales of reoffered timber in the State of Washington.

FIRE FIGHTING BUDGET

46. Question: The 1988 appropriations contained a funding level for fire fighting of $125 million. In its budget request, the Forest Service has requested $35 million for fire fighting. Given the continuing drought conditions in many parts of the west, is this an adequate funding request? What assumptions did the Forest Service use to justify this level of a request for fire fighting?

Answer: The scope and amount of forest fire fighting (FFF) varies each year according to severity of burning conditions, and the amount of the annual budget for fire protection (presuppression) program. In the past ten years, FFF costs have varied from $27 million to $261 million. The decision was made to fund FFF at the lowest level required for the previous five years.

The Forest Service can transfer amounts necessary from the Knutson-Vandenberg (K-V) Cooperative Work Trust Fund to cover forest fire fighting costs. This fund typically has large unobligated balances which are held in a contingency reserve to cover work requirements in future years. The current reserve is sufficient to prevent any negative impacts to the anticipated K-V program level in FY 1988 or FY 1989 resulting from the transfer of funding for 1987 firefighting costs. When the K-V fund requires reimbursement to accomplish anticipated work in an efficient manner, the remaining $125 million (remaining 1987 FFF costs transfered from K-V) can be requested.

FOREST PLANS

47. Question: To what extent does the 1989 budget request reflect the program levels that the Forest Service anticipates in the final forest plans for Region 6, and in particular, Washington state? Can you provide a summary for the national forests in Washington state, what the level of funding is by program account in the budget request and a comparison of what is would be under the preferred alternatives for the forests draft/final forest plans? What is the proposed time frame for the release of the final forest plans for the national forests in Washington?

Answer: The annual budgets of the Forest Service are developed to be consistent with National goals and the overall economic state of the Nation. The budgets are prepared to be consistent with the priorities contained in the forest plans.

Report language in the 1988 Appropriations Act requested the Forest Service to provide the regional and forest funding level assumed in the plans as compared to the 1989 budget request. We expect to forward this information to the Committees in early April and will forward you a copy of the data for Region 6.

The following is the proposed timeframe for release of final Forest plans for National Forests in Washington:

Colville	September 1988
Gifford Pinchot	February 1989
Mt. Baker-Snoqualmie	February 1989
Okanogan	February 1989
Olympic	February 1989
Wenatchee	February 1989

APPENDIX II

RESPONSES TO ADDITIONAL COMMITTEE QUESTIONS FROM THE FEDERAL ENERGY REGULATORY COMMISSION

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D. C. 20426

CHAIRMAN

March 11, 1988

Dear Mr. Chairman:

Thank you for your letter dated March 4, 1988, enclosing a set of post-hearing questions associated with the Senate Energy and Natural Resources Committee's March 3 hearing on the proposed fiscal year 1989 budget for the Federal Energy Regulatory Commission.

I appreciate your interest and am pleased to submit the enclosed responses which were prepared by the Commission's staff.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Martha O. Hesse

Enclosure

Honorable J. Bennett Johnston
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Questions from Senator Bradley for FERC Chairman Martha O. Hesse

Question 1: Numerous applications have now been filed to serve Northeast gas markets in response to FERC's open season request. How do you plan to approach evaluating these applications in the most expeditious manner? Do you plan to group them into discrete target markets and order a number of hearings to determine which is the best proposal for each group of customers?

Answer: A schedule by which the Commission will review the numerous applications to serve Northeast gas markets will be announced in conjunction with the Commission's consideration of a draft Order Consolidating Applications and Prescribing Procedures to be issued in Docket No. CP87-451-004, et al. The essential elements of this schedule, as well as a copy of the order, will be provided in a supplemental response.

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D. C. 20426

CHAIRMAN

April 28, 1988

Dear Senator Bradley:

In reference to your question on the filing of new applications proposing natural gas service to the northeastern United States, I am providing the supplemental response referred to in our answer.

Enclosed as a follow-up to your question is a copy of the March 17, 1988, Commission order and the companion Commission press release which includes the Commission's schedule for review of the projects.

If I can be of further assistance in this or any other Commission matter, please let me know.

Sincerely,

Martha O. Hesse

Enclosures

Honorable Bill Bradley
United States Senate
Washington, D.C. 20510

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D.C. 20426

NEWS RELEASE

NEWS MEDIA CONTACT:
TAMARA YOUNG-ALLEN
(202) 357-8380

FOR IMMEDIATE RELEASE
March 18, 1988
Docket No. CP87-451-000

COMMISSION ANNOUNCES SCHEDULE FOR ACTION ON NORTHEAST GAS SERVICES PROPOSALS; CONSOLIDATES APPLICATIONS INTO 31 PROJECTS

Federal Energy Regulatory Commission (FERC) Chairman Martha O. Hesse released a schedule by which the Commission will review natural gas pipeline proposals to serve the Northeastern United States.

"Although this schedule will substantially reduce the processing time traditionally involved with these types of major applications, I am continuing to search for innovative approaches to further compress this schedule. In addition, new target dates will be established if some applications can be consolidated into smaller groups and additional projects can be processed as discrete proposals based on detailed market data," Chairman Hesse said.

"In developing this schedule, our top priority is to reduce substantially the six years that processing these major applications would have taken under the Commission's traditional approach," Chairman Hesse said. "Although the current schedule cuts this time in half, the environmental analyses may still take three years to complete because of the complexity and diversity of these proposals. We are continuing to explore other options to reduce this processing time even further and welcome suggestions from the public to help achieve that goal."

In a separate order issued March 17, the Commission has taken a significant step toward processing the proposals by consolidating related applications into 31 distinct projects. The Commission has determined that 20 of the 31 projects may be competitive or mutually exclusive and therefore entitled to comparative hearings.

(MORE)

The Commission seeks public comment on this preliminary determination. Comments should be submitted by April 18 to the Commission's Office of the Secretary; 825 North Capitol Street, NE: Washington, D.C. 20426. A listing of the twenty projects is attached to this press release.

In addition, the Commission has identified seven discrete proposals which would serve distinct markets. These projects are not subject to comparative hearings and, therefore, can be processed more expeditiously. A listing of the discrete projects is also attached to this press release.

"We will embark on a challenging schedule so that the Commission can decide by late summer 1988 which projects should move to the hearing stage and which projects should be considered on an independent track," Chairman Hesse said. "However, final Commission orders on many of the proposals can be issued only after extensive hearings and environmental analyses."

Many of the applications, some of which total several hundred pages, were filed by January 15, 1988, the deadline for proposing new service in the Northeast under the Commission's "open season." Seventy-two applications are now being considered as part of this proceeding. Many involve importing Canadian gas.

In response to public notices issued for each application, hundreds of petitions to intervene and comments have been filed. The applications and public comments must be reviewed thoroughly to determine which project or projects would adequately serve the Northeast.

In addition, applications that propose constructing or operating facilities outside the Northeast, but involve eventual service to the region, are also being reviewed as part of the open season.

"The proposals are complex and may involve sensitive environmental issues which must be aired and carefully weighed," Chairman Hesse said.

The Commission will be involved in the following steps toward processing the applications:

SPRING 1988

o Public technical conferences will be convened to obtain additional information about the proposals and discuss procedures;

(MORE)

o Preliminary determinations will be made of competitive proposals, i.e., those that should be consolidated for purposes of comparative hearings before FERC administrative law judges. (See order issued March 17 in Docket No. CP87-451-004, et al.);

o Preliminary determinations will be made of "discrete" proposals, i.e., those that are independent and are not mutually exclusive with the proposals that would be consolidated for comparative hearings (See order issued March 17 in Docket No. CP87-451-004);

o Determinations will be made of proposals that should be dismissed due to failure to comply with FERC's regulations governing gas service filings;

SUMMER 1988

o Orders will be issued setting the consolidated cases for hearings before FERC's administrative law judges. Judges will be assigned and will preside over prehearing conferences to determine hearing dates. These proceedings are also open to the public;

o Processing of the discrete applications will continue;

o Procedures will be refined for the environmental review of the competitive projects. While final environmental impact statements of some proposals could be completed in 15 months, completing the environmental analyses of all of the competitive proposals could take at least three years.

The Commission defines the Northeast U.S. to include the following states: Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont.

Schedule of Northeast Projects
Target Dates 1/

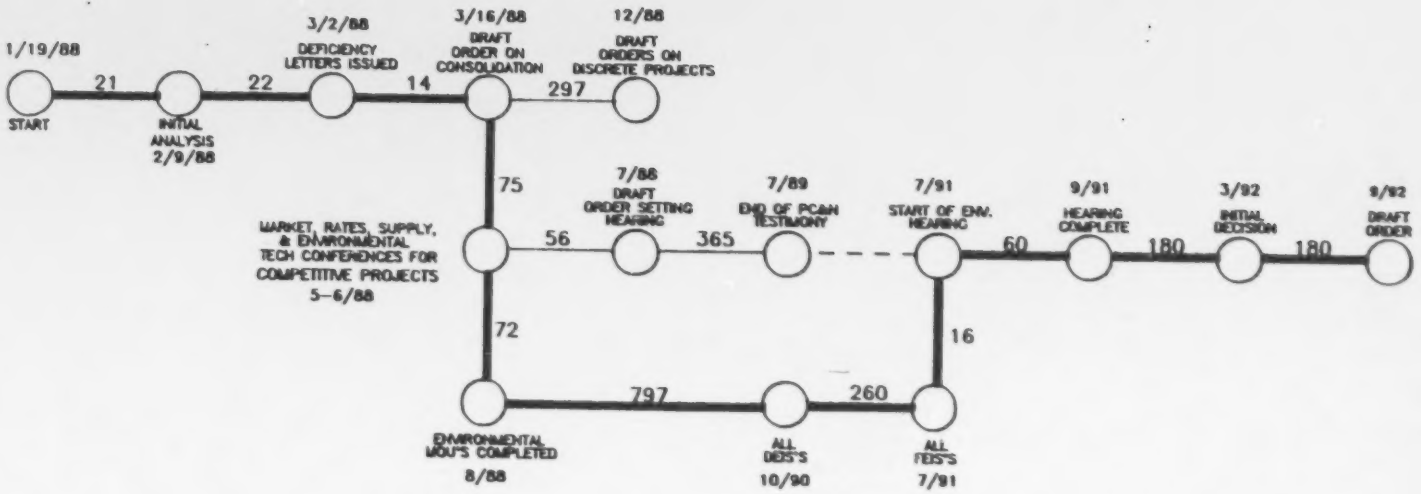
1988	
March 2	Issued deficiency letters.
March 17	Commission order consolidating applications.
May/June	Complete technical conferences on market, rates, supply and environmental issues.
July 27	Draft order(s) setting competitive projects for comparative hearing(s) on Commission's agenda. Continue expedited processing of discrete projects.
August 11	Complete environmental memoranda of understanding with competitive project sponsors.
December 31	Complete issuing Commission orders on discrete projects not requiring hearing.
1989	
July 31	Complete comparative hearing(s) (excluding environmental testimony).
1990	
October	Complete Draft Environmental Impact Statements for all competitive projects.
1991	
July	Complete Final Environmental Impact Statements for all competitive projects. Start environmental hearing(s).
September	Complete environmental hearing(s).

1/ Earlier target dates may be established if more projects can be consolidated, eliminated (dismissed), or determined to be discrete based on market data, and if settlements can be reached and innovative procedures can be found to expedite the schedule.

1992

March	Initial Decision(s) by Adminstrative Law Judge(s).
September	Draft Commission Order(s).

NE PROJECTS


1/19/88
START
21
INITIAL ANALYSIS 2/9/88
22
3/2/88
DEFICIENCY LETTERS ISSUED
14
3/16/88
DRAFT ORDER ON CONSOLIDATION
297
12/88
DRAFT ORDERS ON DISCRETE PROJECTS
75
MARKET, RATES, SUPPLY, & ENVIRONMENTAL TECH CONFERENCES FOR COMPETITIVE PROJECTS 5-6/88
56
7/88
DRAFT ORDER SETTING HEARING
365
7/89
END OF PCAN TESTIMONY
7/91
START OF ENV. HEARING
60
9/91
HEARING COMPLETE
180
3/92
INITIAL DECISION
180
9/92
DRAFT ORDER
72
ENVIRONMENTAL MOU'S COMPLETED 8/88
797
ALL DEIS'S 10/90
260
ALL FEIS'S 7/91
16

Docket No. CP87-451-000

APPENDIX A

Competitive Projects

	Project	Docket No.- Co.	Service	Proposed Facilities
1.	Iroquois 1/	CP86-523-000 Iroquois CP86-523-001 Iroquois CP86-523-002 Iroquois CP86-523-003 Iroquois CP86-524-000 Iroquois CP88-198-000 Iroquois	Firm 20-yr transportation of 352 MMcfd of Canadian gas for 11 LDCs in NY, NJ and CT (Iroquois Group); also blanket transportation	358.5 mi new pipe, 353 MMcfd capacity, $383.7 million, from NY/Can border thru NY, CT to Long Island
2.	Champlain	CP88-168-000 Champlain CP88-169-000 Champlain	Firm 20-yr transportation of 325 MMcfd of Canadian gas for 9 LDCs in VT, NH, RI and MA and 9 Cogen and Electric Generation users in MA and NH	290 mi new pipe, 326 MMcfd capacity, $268.6 million, from VT/Can border thru VT, NH to MA
3.	New Jersey/ Providence	CP88-129-000 Columbia CP88-129-001 Columbia CP88-163-000 Columbia CP88-164-000 Columbia	20 Mdthd sale to 2 LDCs in NJ and RI; Subsequent Part 284 transportation of 60 Mdthd to 2 LDCs in NJ and RI	57.2 mi new 16" pipe in PA and NJ; replacement and increase in MAOP of 27.6 mi of 20" pipe upstream of proposed service; total cost $53.7 million; capacity increase of replacement project is 59.7 MMcfd

1/ Note that Docket Nos. CP86-523-000 through -003 and CP86-524-000 were filed under the optional procedures of Part 157, Subpart E of our regulations. Section 157.103 of these rules provides that such filings are not considered mutually exclusive of other applications. Thus, under our current regulations a competitive hearing under Ashbacker is not required for such filings. See Order No. 436. [Reg. Preambles 1982-1985] FERC Stats. & Regs. ¶ 30,675 at page 31,575. This issue will be addressed in a subsequent Commission order establishing procedures for these dockets.

	Project	Docket No.- Co.	Service	Proposed Facilities
4.	TEMCO	CP88-92-000 Transco CP88-94-000 Nat'l Fuel CP88-171-000 Tennessee	Firm transportation of 75 Mdthd of Canadian gas for 3 LDCs in NY, NJ and MD	40.5 mi of new pipe, 7,000 HP compression, metering facilities; $46 million; in NY and PA
5.	Transco System Expansion	CP88-177-000 Transco CP88-171-000 Tennessee CP88-194-000 Nat'l Fuel/ Penn York	Firm 15-yr transportation of 125 MMcfd of Canadian gas for 5 LDCs, 1 end user, 2 cogens, and 9 others in PA, MD, NY, NJ, NC; 11.0 Bcf storage resulting in 100 MMcfd firm deliveries from storage to 6 LDCs and 6 others in PA, MD, NY, NJ	65.7 mi new and replacement pipe in PA, NY; 29,000 HP compression in PA; 225 MMcfd capacity; metering facilities in NY and PA; $93.3 million
6.	Niagara Spur	CP87-131-000 Tennessee CP87-131-001 Tennessee	Expansion of capacity for Canadian imports for system supply (Phase 2)	5,700 HP compression in NY, 82.5 MMcfd capacity, $12 million
7.	Public Service	CP88-172-000 Tennessee	Firm sales increase to existing LDC of 40 Mdthd in NJ; convertible to firm transportation. Abandon 15 Mdthd sales to another LDC	28.7 mi of new and possibly replacement pipe, 3,165 HP compression, metering facilities in NY, PA, NJ. Total cost of $38.7 million
8.	NEP	CP88-174-000 Tennessee CP88-175-000 Northeastern Gas Transmission	Firm 20-yr transportation of 95.6 MMcfd by Tenn. and 120 MMcfd by Northeastern of domestic and Canadian gas for NEP	101.1 mi new pipe and 31,500 HP compression, $236 million at various pts in TN, KY, OH, PA, NY and MA

Project	Docket No.- Co.	Service	Proposed Facilities
9. ANE	CP88-176-000 Tennessee	Firm transportation of 31.7 MMcfd of Canadian gas for 6 LDCs in MA, NH and RI	40.7 mi pipe in NY and MA, 14 mi lateral pipelines in MA and NH; 1,550 HP compression in NY and MA; Total cost $61.2 million
10. NOREX	CP87-358-000 Tennessee CP87-358-001 Tennessee CP87-428-000 CNG	Firm sales increase and transportation of 91.4 MMcfd to 10 existing LDCs in MA, NH, CT, RI. Convertible to transportation up to 20% per year	65.9 mi of pipe, 2,350 HP compression, $64.2 million, in MA, NY, NH
11. NORTRAN	CP88-173-000 Tennessee	Firm transportation of 102.5 Mdthd to 8 Cogen and 44.4 Mdthd to 3 LDCs for 20 yrs in NY, CT, RI, MA	100.2 mi of new and replacement pipe, 18,800 HP compression, meas. and filtration facilities in NY, CT, RI, MA; $131.6 million
12. Providence	CP87-75-000 Tennessee	12-yr, 30 Mdthd sale to LDC in RI, optional conversion to transportation	44.4 mi pipe, 30 Mdthd capacity, $37.5 million; in MA, RI, NY
13. PennEast Sales	CP87-4-000 PennEast CP87-4-001 PennEast/TETCO CP87-5-000 CNG CP87-28-000 TETCO	Firm, 20-year sales and transportation of 100 Mdthd to 5 LDCs in NY and NJ, from CNG system supply. Storage service of 23 Mdthd to 1 LDC in NY; also blanket transportation	28.0 mi pipe and 20,700 HP compression in PA. Capacity is 123 Mdth. Looping by PennEast on TETCO's system. Total cost is $53.0 million

Project	Docket No.- Co.	Service	Proposed Facilities
14. St. Lawrence System	CP88-182-000 PennEast/ CNG/TETCO CP88-189-000 Algonquin CP86-344-000 CNG	Long-term firm transportation of 352 MMcfd of Canadian gas for 11 LDCs in NY, NJ and CT (Iroquois Group): also blanket transportation	237.8 mi of new pipe, 99,700 HP of compression, 352 MMcfd capacity; $460.7 million, from NY/Can border thru NY, NJ to Long Island; Looping by PennEast on TETCO's system
15. PennEast-Niagara/ Cogen	CP88-195-000 PennEast/ CNG/TETCO CP88-197-000 PennEast CP88-186-000 Algonquin CP88-187-000 Algonquin CP88-188-000 Algonquin CP87-312-000 PennEast/TETCO CP87-92-000 TETCO/PennEast CP87-92-001 PennEast/TETCO CP87-92-002 TETCO/PennEast	Firm long-term transportation of 154.6 Mdthd of Canadian and Appalachian gas for 5 cogens in NY, NJ, MA, and related storage; also blanket transportation	91.5 mi new and replacement pipe and 29,350 HP compression; $163.7 million; in PA, NY, NJ, MA; looping by PennEast on TETCO's system
16. Greater Northeast	CP88-190-000 Greater NE CP88-191-000 Greater NE CP88-192-000 Algonquin CP88-180-000 TETCO CP88-181-000 PennEast CP88-195-000 PennEast CP88-197-000 PennEast CP87-312-000 PennEast/ TETCO CP87-92-000 TETCO/PennEast CP87-92-001 PennEast/TETCO CP87-92-002 TETCO/PennEast	Firm, long-term transportation of 756 MMcfd of Canadian & domestic gas for Iroquois group (11 LDCs), NEP, 7 PennEast CDS shippers and 5 cogens in NY, NJ, CT, and MA. Certain related sales and storage; also blanket transportation	511.2 mi pipe; 63,950 HP; $779.1 million; in NY, MA, CT, NJ and PA; looping by PennEast on TETCO's system

	Project	Docket No.- Co.	Service	Proposed Facilities
17.	PennEast Alternative to Transco System Expansion	CP88-183-000 PennEast/CNG CP88-194-000 National Fuel/Penn-York CP88-177-000 Transco CP88-171-000 Tennessee	Firm 20-yr transportation of 125 MMcfd of Canadian gas for 5 LDCs, 1 end user, 2 cogens, and 9 others in PA, MD, NY, NJ, NC; 11.0 Bcf storage resulting in 100 MMcfd firm deliveries from storage to 6 LDCs and 6 others in PA, MD, NY, NJ; also blanket transportation authority	52.7 mi of new and replacement pipe in PA, NY, NJ; 33,000 HP in PA and NY; Metering facilities in NY and PA; 225 MMcfd capacity; $94.8 million
18.	Northern Border	CP88-77-000 Northern Border	Firm transportation of 1,100 MMcfd of Canadian gas from Montana to interconnect with Panhandle/Trunkline in Illinois	371 mi of pipe; IA and IL; 256,000 HP; $534 million; total capacity 1.1 Bcfd

Project	Docket No.- Co.	Service	Proposed Facilities
19. TETCO/Penn-East Capacity Restoration, Sales and Storage Expansion	CP87-92-000 TETCO/ PennEast CP87-92-001 PennEast/ TETCO CP87-92-002 TETCO/ PennEast CP87-4-000 PennEast CP87-5-000 CNG CP87-312 000 PennEast/ TETCO CP87-313-000 CNG CP87-314-000 CNG CP87-554-000 Algonquin CP87-380-000 TETCO/ Algonquin CP66-43-001 TETCO CP88-179-000 TETCO	Restores existing capacity on TETCO's system of 656.4 Mdthd; adds proposed sales and transportation for PennEast of 145 Mdthd to 5 LDCs in NY and NJ; proposed transportation of 80 Mdthd to non - NE LDCs; and provide storage service of 199.1 Mdthd and transportation of 438 Mdthd to 15 LDCs in RI, NY, MA, NJ and CT. Sales and storage gas from CNG's system supply; also blanket transportation	324.4 mi new and replacement pipe, 71,400 HP compression in OH, WV, PA, NY, NJ, RI, MA. Total cost of $594.6 million; total capacity 1,080.5 Mdthd; some looping by PennEast on existing TETCO system
20. PennEast CDS	CP88-181-000 PennEast CP88-180-000 TETCO CP88-185-000 Algonquin	Firm 10-yr sales and transportation of 150 Mdthd of TETCO general system supply for 15 LDCs in IL, IN, TN, PA, MA, CT, NY, NJ; also blanket transportation and standby service; interim best efforts service proposed by PennEast and TETCO; partial abandonment of Columbia and CNG	39.8 mi new pipe, 59,800 HP, 150 Mdthd capacity, $125.8 million, in PA, NJ, MA, CT, NY; looping by PennEast on TETCO's system

Docket No. CP87-451-004

APPENDIX B

Projects Subject to Deficiencies

	Project	Docket No.- Co.	Service	Proposed Facilities
1.	EASTCO	CP88-193-000 Eastern American States Transmission	Unspecified transportation under future 311 and/or 7(c)'s up to 500 MMcfd of US and/or Canadian gas for one Electric Generation in MA, one congen customer in NY, and two unspecified cogen customers	361 mi pipe and 24,000 HP compression; 500 MMcfd capacity, $287.7 million; from Defiance, OH to Oakford PA and Staten Island, NY to Long Island, NY
2.	Erie	CP86-329-001 Erie CP86-330-001 Erie	Blanket firm transportation of up to 425 MMcfd and unspecified interruptible service	367 mi pipe and 39,800 HP compression; from Ohio to PA; 425 MMcfd capacity; $313 million
3.	Indiana Ohio	CP88-178-000 Indiana Ohio Pipeline	Blanket firm and interruptible transportation of 200 MMcfd to: 1 cogen in NJ and MA; 1 cogen unspecified; 1 Electric Generation in VA; and 1 pipeline unspecified	110 mi pipe and 6,000 HP compression from Indiana to Ohio; 200 MMcfd capacity; $50 million
4.	Transco CD Adjustment	CP85-294-000 Transco	Firm sales increase from system supply and/or transportation of 80.4 MMcfd to 6 existing LDC customers in NY, NJ and PA	13 mi of pipe loop in GA and NJ at a total cost of $23 million

Docket No. CP87-451-004

Discrete Projects

APPENDIX C

	Project	Docket No.- Co.	Service	Proposed Facilities
1.	ORU	CP87-339-000 Columbia	Increase existing CD sales by 1.2 MMcfd to NY LDC	Abandon 9.5 mi and replace with 5.9 mi of new pipe at a different location; 55.9 MMcfd capacity in Orange and Rockland Counties, NY, $8.1 million
2.	Ocean State	CP87-132-000 Tennessee CP87-132-001 Tennessee CP87-131-000 Tennessee CP87-131-001 Tennessee	Firm 20-year transportation of 50 MMcfd for Electric Generation in RI using Phase 1 of Niagara Spur Expansion	36.2 mi pipe and 11,000 HP compression (6,500 HP new and 4,500 HP reactivated); $61.2 million
3.	Beverly-Salem	CP87-85-000 Tennessee	C&O facilities to firm-up previously authorized transportation service to Boston Gas of 10.5 Mdthd in MA	2.0 mi pipe replacement in MA, 10.5 Mdthd capacity, $4.1 million
4.	CNG Storage	CP87-447-000 CNG	Firm 20-yr, 80 Mdthd storage service for NE Pipeline	No Facilities
5.	Braintree	CP88-167-000 Algonquin	Firm 20-yr transportation of 21.7 Mdthd for EG in MA	6.4 mi pipe, meter station in MA and RI, $12.7 million

	Project	Docket No.- Co.	Service	Proposed Facilities
6.	Commonwealth	CP87-492-000 Algonquin	Firm 20-yr transportation for peak day of 40 MMcfd for LDC in MA	8.4 mi pipe in MA, $10.8 mill
7.	DOMAC Excess LNG	CP88-160-000 Distrigas CP88-161-000 Distrigas	Sale of LNG in excess of customers' nominations and use of terminalling and sale for resale services	No Facilities

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Northeast U.S. Pipeline Projects) Docket No. CP87-451-004, et al.

NOTICE OF TECHNICAL CONFERENCE TO DISCUSS PROCEDURES FOR ENVIRONMENTAL REVIEW

(April 22, 1988)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Environmental Technical Conference.

SUMMARY: On March 17, 1988 the Federal Energy Regulatory Commission issued an "Order Consolidating Applications and Prescribing Procedures" (Consolidation Order) for reviewing applications filed under the Northeast U.S. Pipeline Projects open season, Docket No. CP87-451-004, et al. That order indicated that, among others, a technical conference on environmental procedures would be convened. This notice identifies the date and time of the Environmental Technical Conference and the general topics of discussion.

DATES: The Environmental Technical Conference will be held on May 12, 1988 at 9:00 a.m. Project proponents and other parties are asked to state their intention to attend by May 6, 1988.

ADDRESS: The conference will be held at:

Hearing Room A
Federal Energy Regulatory Commission
825 North Capitol Street, N.E.
Washington, D.C. 20426

Each Northeast Project proponent is requested to participate and should file, by May 6, 1988, the name of the person who will make the presentation with:

The Office of the Secretary
Federal Energy Regulatory Commission
825 North Capitol Street, N.E.
Washington, D.C. 20426

FOR FURTHER INFORMATION CONTACT:

John S. Leiss
Environmental Analysis Branch
Office of Pipeline and Producer Regulation
Federal Energy Regulatory Commission
825 North Capitol Street, N.E.
Washington, D.C. 20426
(202) 357-9021

SUPPLEMENTARY INFORMATION:

As specified in the Consolidation Order, there will be technical conferences on various topics relating to the Northeast Project filings. This notice deals with the Environmental Technical Conference for these projects. It describes proposed procedures which are designed to minimize the processing time while ensuring a comprehensive independent environmental review by the Commission. It describes an acceptable arrangement for contractor preparation of the environmental analysis. The Notice includes questions which the FERC would like attendees to address, and an agenda.

Contracting Arrangement

The FERC's staff will approve contractual arrangements between the proponent(s) of each Northeast Project and a third party contractor for the preparation of environmental impact statements and other environmental documents if those arrangements meet specified conditions to ensure that the FERC staff may actively participate in the preparation of the documents, independently evaluate and approve the documents, and take responsibility for their scope and content. The process by which this contractor would be chosen and the rules under which the contractor would operate are contained in the attached Generic Memorandum of Understanding and Generic Statement of Work. Briefly, the contractor would be selected by the FERC

staff, work under the direction of the FERC staff, and any documents produced by the contractor would not be subject to the review of the proponent(s) of the project. The FERC staff would undertake this direction itself or through a contractor hired directly by the FERC.

The project-specific Memorandum of Understanding (MOU) would be executed as soon as possible following the Environmental Technical Conference. Shortly thereafter, the project proponent(s) would be expected to submit a list and information concerning at least three contractors from which the FERC staff would select the contractor for the project. The FERC would not be a party to the contract.

Questions for Discussion

a. In what project order should the environmental review proceed? Specifically, how should the projects be grouped for environmental purposes? What is the basis for this opinion?

b. How should scoping of environmental issues proceed?

c. Is more than 7 days from signing of the MOU needed for proponents to file submissions from at least three qualified contractors so that staff can evaluate them?

d. How should the state governments of the affected states be formally included to maximize the efficiency of the environmental review process?

e. Will the project proponent you represent sign the MOU signifying its agreement to proceed under the identified procedures?

Conference Details

The Environmental Technical Conference will be held on May 12, 1988 at 9:00 a.m. in Hearing Room A at the FERC's offices at 825 North Capitol Street N.E., Washington, D.C. 20426. Participants should provide to the FERC Secretary the name of the individual who will speak at the conference. The Secretary's office should be notified no later than May 6, 1988 of who will speak. Each project proponent will be allotted 10 minutes for presentation and should first address the above questions and then provide whatever additional general comments the speaker may have. As shown on the attached draft agenda, there will be an opportunity for further comments as time permits. Written comments may also be submitted.

A transcript will be made of the conference, and it will be available in the public file for these proceedings and in the FERC's Public Reference Room. The transcript may be ordered from the reporting company.

Lois D. Cashell,
Acting Secretary.

3 Attachments:1/
Agenda
Generic Memorandum of Understanding
Generic Statement of Work

1/ The Generic Memorandum of Understanding and Generic Statement of Work are not printed in the Federal Register due to their length. However, these documents were sent to each party to the Northeast projects proceeding and to all appropriate Federal and state agencies and environmental groups. Copies are also available in the Commission Public Reference Room, Room 1000, 825 North Capitol Street, N.E., Washington, DC 20426.

NE PROJECTS

Environmental Technical Conference

Agenda - May 12, 1988 - 9:00 a.m.

A. Staff Presentation

1. Proposed EIS/EA overall preparation procedure.

2. The generic MOU and statement of work.

3. Post-MOU procedures

4. Staff's questions.

B. Comments by NE Project Sponsors

1. Response to staff's specific questions

2. Other comments

C. Comments by State Governments

1. Response to staff's specific questions

2. Other comments

D. Comments by Other Interested Parties

1. Response to staff's specific questions

2. Other comments

E. Additional comment opportunity

1. Other comments

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE FEDERAL ENERGY REGULATORY COMMISSION
AND
(APPLICANT)
(Docket Nos. CP88-_____)

I. INTRODUCTION AND PURPOSE

It has been agreed among the parties here to that (company name) will engage a contractor for the preparation of an Environmental Impact Statement (EIS) or Environmental Assessment (EA) and other related documents, reports, or evaluations, as those matters are defined and applied at 18 CFR 380, in connection with the application for a certificate of public convenience and necessity from the Federal Energy Regulatory Commission (FERC) for natural gas pipeline facilities proposed by (company name) in the specified dockets. The EIS or EA and other related documents must comply with all provisions of the National Environmental Policy Act of 1969 (NEPA) and the FERC's regulations at Part 380 implementing NEPA and any and all regulations and/or guidance relating to the NEPA.

Upon agreement of the parties involved, the FERC will issue a Notice of Intent which will designate the FERC as the lead Federal agency for the project and, as such will coordinate with all other affected agencies for compliance with their permitting requirements.

It is the purpose of this Memorandum of Understanding (MOU) to establish an understanding between (company name), and the FERC regarding the conditions and procedures to be followed in the preparation of the EIS or EA or any other related documents.

The parties intend that development and preparation of the environmental data and analysis and the EIS or EA, as provided in this MOU, will satisfy the pertinent environmental requirements of the FERC and, to the extent practicable, will address those environmental concerns necessary for the issuance of permits and/or approvals from other Federal agencies and from state and local agencies for the development, construction and operation of the project. The parties recognize that development of environmental information pursuant to this MOU does not guarantee issuance of such permits and/or approvals.

II. GENERAL PROVISIONS

A. The FERC will be the lead agency and will be responsible for assuring compliance with all of the requirements of the NEPA, 42 U.S.C. 4321, et seq., and FERC regulations under the NEPA. The FERC staff shall assure that all pertinent environmental issues and impacts are treated in the EIS or EA,

and shall be responsible for determining the scope and content of the EIS or EA.

B. {Company name} shall provide the FERC staff with a list of at least three contractors from which to choose one to prepare the EIS or EA under contract to {company name}. In addition to the list, {company name} shall include submissions by each listed contractor identifying:

1. The contractor's plan to implement the project-specific Statement of Work;

2. The personnel to be used (including vitae); and

3. The contractor's organizational qualifications and experience to perform the work.

4. A Statement of Financial Interest as precribed in paragraph D below.

If the FERC staff's review of these submissions concludes that none are acceptable, the project proponent will be asked to provide additional contractor submissions.

C. {Company name} shall retain the contractor selected by the FERC staff to provide the supportive expertise, manpower and technical capabilities required for preparation of this EIS or EA. The contractor will write the EIS or EA and with the prior approval of the FERC staff may employ such other contractors and experts (collectively referred to as subcontractors) as are required for the adequate development and preparation of the EIS or EA.

D. The contract between {company name} and the contractor, and any subcontractors thereunder, will be consistent with the provisions of this MOU and Statement of Work and will specifically incorporate the provisions which address the conduct of the contractor. The contract will provide, and {company name} hereby represents, except as provided in paragraph D.1. below, that the contractor and any subcontractors to be employed by the contractor do not, and will not, have any financial interests in the planning, design, construction or initial operation of the proposed project except with regard to the preparation of the EIS or EA. Further, the contract with the contractor and the contract of any subcontractor engaged to conduct any work related to this MOU will specifically limit any remedies available to the contractor or a subcontractor arising

as a result of any particular aspect of the performance or termination of the work described in this MOU so as to affirmatively relieve the United States of America, the FERC and any officer, agency or employee of same, from any liability upon termination of the consulting contract or this MOU.

1. {Company name} shall direct the prospective contractors and subcontractors to provide the FERC "Statement(s) of Financial Interests" (SOFI) outlining current or planned ownership of stock, bonds, or other legal interests in {company name}, by the contractor, its officers, affiliates or subsidiaries, those other employees who will be assigned to work on the EIS or EA, and any subcontractors or employees assigned to the Project. The SOFI will also list any previous contracts, contract amounts and the percentage of total yearly billings represented thereby between {company name} and the contractor and subcontractors.

Note: For the purposes of this subparagraph (1) "employee" does not include clerical employees, and (2) the financial interests of any individual include those of his or her spouse and dependent children.

2. The SOFI must also list all corporate affiliates and subsidiaries of the contractor and subcontractors and the current or planned interests or participation of the contractor and subcontractors in any other matter regulated by the FERC or the National Energy Board of Canada, as well as any energy need forecasting and environmental review of energy supply projects for the northeastern states as defined in the FERC's March 17, 1988 order on consolidation.

3. The SOFI must list and describe any past, present or currently planned interest, financial or otherwise, which might have any bearing on the contractor's or subcontractor's ability to render impartial, technically sound and objective advice.

4. The SOFI must certify that the contractor and subcontractor are not aware of any fact that could pose a potential conflict of interest.

5. Within approximately 30 days of the date of submission of the SOFI, the FERC staff will determine what measures, if any, are necessary to be taken to ensure the objectivity of the EIS or

EA, and [company name] agrees to take all reasonable steps to ensure that such measures are taken.

E. The contract between [company name] and the contractor will require the satisfactory and timely performance and completion of work in accordance with the schedule within the Statement of Work. The contract will not contain incentive or penalty clauses based on delivery date unless it is specified that determination of whether there has been a delivery for this purpose depends on agreement by the FERC staff reviewers that the deliverables meet FERC's needs. Further, [company name] will ensure coordination of effort between [company name]'s in-house staff and FERC staff and the contractor (and other subcontractors employed by the contractor) for the development of the EIS or EA, related to the planning, design and construction of the project.

F. The FERC staff will:

1. Review substantive phases of the EIS or EA preparation.

2. Provide such representatives as necessary to accomplish the coordination necessary to the satisfactory preparation of the EIS or EA.

3. Have its representatives attend regular meetings with Federal, state, regional, and local agencies for the purpose of increasing communication and receiving comments, as necessary, desirable or required by law, in the preparation of the EIS or EA.

4. Ensure coordination of effort, exchange of information, and technical support for any necessary field studies.

G. All costs incurred in connection with the employment of the contractor or any other entity participating in the preparation of the EIS or EA under contract with [company name] will be the sole responsibility of [company name]. Except to the extent provided below, [company name] agrees to hold harmless and indentify the FERC with respect to any and all monetary claims, demands, causes of action, and the like (not actionable under the Federal Tort Claims Act) which may arise from the performance of the consulting contract and/or any other services or purchases of materials utilized for the preparation of the EIS or EA. This indemnification

by [company name] does not extend to the administrative or legal costs of the FERC, including suits by third parties (other than the contractor or its subcontractors) against the FERC, involving the legality or adequacy of the FERC's compliance with NEPA and other laws and regulations, to the extent of the agency's liability on those issues. [company name] shall cooperate and shall ensure that the contractor cooperates in defence of any such suit.

III. PROCEDURES

A. Upon issuance of the Notice of Intent to Prepare an EIS or EA, a public scoping meeting(s), if needed, will be scheduled to take place in or near _____, sometime before the end of the public comment period. The contractor will make the appropriate arrangements for a meeting place and will retain a court reporter to record the proceeding. A transcript of the meeting shall be sent to the FERC and [company name].

B. After the scoping period is concluded, the FERC staff, in consultation with other interested Federal agencies, and the contractor will finalize the Implementation Plan (IP), which establishes the scope of work required of the contractor in preparation of the EIS or EA in accordance with the schedule attached to the Statement of Work. The IP will be prepared by the contractor as outlined in the Scope of Work document and will include a detailed description of all work to be performed, the name and qualifications of the person performing each aspect of the work, a description of the internal and external review procedures to assure quality control, the estimated man-hours required for each task, and the schedule for performing each task. In order to avoid unnecessary duplication, the contractor shall include, to the extent practicable and verifiable, existing data from other studies performed for this project.

C. The IP, this MOU, and the Statement of Work shall establish the scope of work required of the contractor in the acquisition of environmental data and analyses and the development and preparation of the EIS or EA.

D. Any and all work performed by the contractor in preparation of the EIS or EA will be submitted directly to the FERC staff by the contractor. The contractor may communicate with [company name] during the development of the EIS or EA, to obtain project related data. In no case will [company name] review, modify, or edit the contractor's work prior to submission to

the FERC staff, or be provided the opportunity to do so.

E. The applicant will file all supplemental data and responses to data requests from the FERC staff or from the contractor with the FERC under oath in accordance with the FERC's regulations. A copy of all such data responses related to the EIS or EA will be provided to the contractor.

F. The FERC staff reserves the right to periodically review and modify the work of the contractor to ensure that the FERC's requirements under NEPA are satisfied. The contractor will submit a biweekly progress report to the FERC staff and {company name}. The report will address the present status of each task, any problems encountered, any recommendations for modifications to the IP, and changes made in personnel or methodology. As each portion of any draft or final document is completed, the FERC staff will review that portion and those tasks completed and shall approve, modify, or provide comment or direct further work with regard to such portion or tasks. The directions or comments will be made by the FERC staff in a timely manner, and the contractor shall ensure incorporation of the FERC staff comments into any editorial changes to the satisfaction of the FERC staff. Final drafts of any documents will be submitted, as prepared, to the FERC staff for review and approval and to any other reviewing agencies as specified by the FERC staff.

G. The contractor will only make modifications to FERC staff-reviewed documents as the FERC staff directs.

H. In all instances involving questions as to the content or relevance of the environmental data and analyses, and evaluations and wording prepared by the contractor, the FERC staff, with the advice and consultation of cooperating agencies where determined necessary by the FERC staff, will make the final determination on any modifications of the EIS or EA. However, in the event of disputes between the FERC and cooperating agencies concerning scientific issues relating to the EIS or EA, the EIS or EA shall contain the conflicting viewpoints.

I. If requested, the contractor will provide the FERC staff access to and review of all procedures and underlying data used by the contractor in developing submitted sections of the EIS or EA, including, but not limited to, field reports, subcontractor's reports, and interviews with concerned private and public parties,

whether or not such information may be contained in a draft or final EIS or EA. {Company name} will have access to such procedures and underlying data to the extent access is approved beforehand by the FERC staff. Confidentiality of such procedures and underlying data shall be governed by paragraph "O".

J. To coordinate the EIS or EA preparation, joint meetings among {company name}, the FERC staff, and the contractor may be held subject to the requirements of the FERC's rules on ex parte communications (18 C.F.R. 385.2201). However, the FERC staff will generally work directly with the contractor for purposes of assuring expeditious communications. The contractor will notify the FERC staff and {company name} of any scheduled meetings with other government agencies and of their purpose and will, upon FERC staff's request, provide an opportunity for other parties to this MOU, including {company name}, to attend. A summary of all matters relating to the EIS or EA discussed in any meeting or communications between the contractor and one or more of the parties without the participation of all parties will be included in each biweekly report submitted by the contractor to the FERC staff and {company name}.

K. {Company name} shall assure the full cooperation of the contractor and any subcontractors with respect to participating in any public workshops, hearings and meetings as required by the FERC staff to foster public familiarity and/or participation with respect to the assessment of impacts related to the subject project.

L. Upon completion of the draft EIS or EA, the contractor will assist the FERC staff in organizing and conducting any public hearing under 40 C.F.R. 1506.6. The FERC will also be the recipient of all comments during the draft EIS review and comment period, or any comment period for the EA. The comment period for an EIS (at least 45 days) will start when the U.S. Environmental Protection Agency (EPA) publishes the "Notice of Availability of the Draft EIS" in the Federal Register.

M. At the close of the draft EIS or EA review and comment period, the FERC staff will identify the issues and comments submitted which will require response in the final EIS or FERC order. The FERC staff will direct those comments to the contractor for analysis. The contractor will provide its analysis to the FERC staff for review. The FERC staff, with the advice and consultation of cooperating agencies will determine the

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appropriate responses. The responses will be included in the final EIS or EA.

N. After receipt of the comments and preparation of the responses, the FERC staff may direct the contractor to make changes to the text of the draft EIS or the EA as necessary.

O. The FERC will maintain the confidentiality of, and will not release or allow access to, any information, documents or materials which, in its opinion, are validly designated as confidential by (company name) or the contractor and which contain trade secrets or commercial or financial information. In any instance where the FERC proposes to release information to the public or allow access to any information, documents or materials which (company name) or the contractor has designated as confidential, it shall notify (company name) or the contractor of its intention to do so and provide (company name) or the contractor the opportunity to appeal that decision in accordance with applicable regulations on such release or access prior to any such release or access.

IV. TERMINATION

A. Any party to this MOU may terminate this agreement for good cause upon 30 days written prior notice to the other parties. The party electing to terminate the agreement shall provide its reason for desiring the termination to the other parties in writing.

B. In the event of a termination of this MOU or the consulting contract, (company name) shall assure that copies of all documentation, reports, analyses, data, etc., developed by the contractor are delivered to the FERC staff, subject to the confidentiality requirements outlined in section III, paragraph O.

V. MODIFICATION

This MOU may be modified by the parties here to only by a mutually agreed upon written amendment.

(company name)	FEDERAL ENERGY REGULATORY COMMISSION
By: _____	BY: _____
Title: _____	Title: _____
Date: _____	Date : _____

Note: Generic Version--will be made project specific for each project

GENERIC STATEMENT OF WORK

BACKGROUND

In the Federal Energy Regulatory Commission (Commission or FERC), the Division of Engineering, Market and Environmental Analysis (DEMEA) of the Office of Pipeline and Producer Regulation (OPPR) is responsible for preparing environmental impact statements (EIS) and environmental assessments (EA) that conform to FERC policy and regulations and other applicable Federal statutes. This Statement of Work concerns an EIS or EA and associated reports for the specified proposed natural gas pipeline project.

During the processing of project applications, pertinent FERC staff, assisted by comments from various Federal, state, and local agencies, and members of the public, and utilizing information in the application and obtained through additional information obtained through requests of the applicant, evaluates and analyzes the project. Regulations specifying the procedures followed by the FERC and an applicant and specifying the contents of applications are in Title 18 of the Code of Federal Regulations (CFR). Issued orders and underlying analyses and conclusions must be consistent with the various Federal statutes under which FERC operates, including the Natural Gas Act (NGA); Natural Gas Policy Act (NGPA); National Environmental Policy Act (NEPA) as implemented by the FERC's regulations; Fish and Wildlife Coordination Act; Endangered Species Act; National Historic Preservation Act; Coastal Zone Management Act; Clean Water Act; Clean Air Act; and National Wild and Scenic Rivers Act.

The process of environmental work during the application review process follows a standardized procedure. When an application under the Natural Gas Act is determined to be deficient, an applicant is given time to correct the problems or face rejection. When the application is received, notice of it is published in the Federal Register. Additional information may be requested at any time during processing of the application if it is necessary to obtain a complete record.

The elements of the environmental work associated with certificate decisions are accumulation and review of baseline environmental data, analysis of the effects of proposed projects and alternatives, including cumulative effects, and the formulation of mitigation measures to protect or enhance environmental values affected by natural gas facility construction and operation. These elements take shape in a

variety of documents prepared by the FERC staff. These documents and the process used to produce them in (OPPR) are described below. These documents must comply with the FERC's regulations implementing NEPA, as modified from time to time.

Environmental Assessment (EA). An EA is a document which describes the environmental conditions present at the site of a proposed project and the environmental effects of construction of the project's facilities and its operations. It is defined in 18 C.F.R. 380.2(d) of the FERC's regulations.

Environmental Impact Statement (EIS). The EIS requires more participation by interested agencies and the public than an EA. EIS's for individual projects follow a format established by the Council on Environmental Quality (CEQ) in regulations (40 C.F.R. 1500, et seq.) supplemented by the FERC's regulations at 18 C.F.R. 380.7 (i.e., purpose and need for action, proposed action and alternatives, affected environment, environmental impacts and staff conclusions). An EIS can be distinguished from an EA by the number and complexity of environmental issues it deals with, and the depth of description and analysis it devotes to each of the resources and impacts in question.

The EIS or EA contains the environmental conditions that are recommended by the FERC staff for inclusion in any issued certificate. These recommendations are necessary to protect, maintain or enhance the environmental resources affected by the project.

The completion of the above documents gives the FERC an environmental record to use in deciding to issue or to deny applications. All documents prepared under this Statement of Work will be consistent with existing FERC policies and practices and with the NEPA.

The work under this Statement of Work will require the preparation of an EIS or EA and require that the Contractor's staff be able to (1) interact in a professional, unbiased manner with state and local agencies and a variety of public interest groups, (2) scope out the important environmental issues, (3) assess complex environmental impacts, (4) determine if mitigation will reduce impacts to an environmentally acceptable level, and (5) develop recommendations that will ensure resources are adequately protected or enhanced.

DESCRIPTION OF WORK

The Contractor is responsible for preparing and submitting an EIS or EA and technical appendices (if necessary) to the FERC staff in accordance with the specified schedule. As part of these responsibilities, the Contractor shall ensure that the following procedures and/or items are included:

- documents include a table of contents, final outline, and general content of documents as described in this Statement of Work;
- collection, collation, incorporation and critical review of applications, applicant's environmental reports, responses to data requests, interventions, and public and other agency comments;
- final editorial review of all text and graphics to ensure continuity of style and format;
- final assembly, printing and mailing of documents; and
- timely submission of the designated number of copies to the FERC staff, the EPA, cooperating agencies and others on the mailing list as specified by the FERC staff.

The FERC staff will provide the Contractor with (or indicate the location of) applications, applicable FERC orders and relevant correspondence. Further documents will be provided as necessary when available. Any additional information the Contractor determines is necessary to be obtained from the applicant in order to meet the requirements of this Statement of Work will be requested through the FERC staff. Requests for information must be delivered in a timely fashion to the FERC staff so as not to delay the schedule of deliverables.

The Contractor shall have principal responsibility for evaluating all of the potential environmental impacts of the proposed project(s) and alternatives.

The Contractor shall be knowledgeable of the potential engineering issues associated with the specified project(s) and the engineering feasibility of various alternatives to the proposed projects.

The Contractor will be responsible for providing a complete document. The quality of tables and graphics, editorial and analytical continuity, and elimination of redundancy and superfluous material are the responsibility of the Contractor. The OPPR staff will advise on the format of tables, graphics, and other elements of style presented in the documents.

DESCRIPTION OF DOCUMENTS

The Contractor is responsible for the preparation of, at a minimum, an EIS or an EA. If technical appendices or other reports are to be prepared, the need to prepare these documents will be specified in the EIS or EA Implementation Plan. (See I.B. below.)

Technical appendices will normally consist of material which substantiates analyses fundamental to the EIS or EA, may be of limited interest to the public at large, or may be too voluminous or detailed for inclusion in the EIS or EA. Additional reports may include Biological Assessments under the Endangered Species Act and Summary Documentation for the Advisory Council on Historic Preservation pursuant to the National Historic Preservation Act.

The Contractor will be responsible for providing numerical data for the EIS or EA on a number of environmental factors to be defined by FERC staff. Approximately 80 to 100 factors will be defined, and each will be measurable using existing data from maps, aerial photographs, documents, the applicant, and other available sources, including field investigations. Examples of the type of information to be quantified include acres of forest crossed, miles of property lines followed, number of homes removed, etc. The information will be provided to FERC staff in the form of a database, spreadsheet, or matrix, as needed for the purpose of comparing competing projects and route alternatives. The specifications for providing this data compatible with IBM personal computers will be provided by FERC staff.

The documents to be prepared, the EIS (I) or the EA (II), and the work required of the Contractor are described below:

I. Prepare an EIS that complies with the NEPA and analyzes the significant environmental impacts to the human environment caused by the construction, operation, and maintenance of a proposed project(s). The specific areas to be addressed in a particular EIS are identified by Contractor and FERC staff and through the scoping process. If the FERC staff prepares or revises any sections of the EIS, the Contractor will be responsible for incorporating FERC staff modifications into the deliverables described in this Statement of Work.

A. Prepare a Notice of Intent to Prepare an EIS and Request for Comments on its Scope for publication in the Federal Register and distribution by the FERC staff or the Contractor to interested resource agencies, the applicant(s), and other parties. The document, at a minimum, will include the following:

- a Notice of Intent suitable for publication in the Federal Register;
- a summary of the proposed project with appropriate maps and a list of the applicant's proposed mitigating measures;
- a preliminary list of issues identified for treatment in the EIS, and where possible, an indication of the level of treatment expected on these issues;
- a statement of the initial scope of the EIS;
- a list of alternatives to be considered in the EIS; and
- an announcement of the time and place of any public scoping meeting(s) to be held.

B. Prepare an EIS Implementation Plan (IP) for the FERC staff and for distribution to all cooperating agencies, if necessary. The IP will be based on information generated during scoping, including the scoping meeting(s), critical review of the application(s), applicant's environmental report, responses to data requests, motions to intervene, and input from FERC staff and other Governmental agencies. The IP will include, at a minimum, the following:

- a summary of the comments and concerns presented at the scoping meeting(s), through written correspondence, contacts with governmental agency personnel, and interventions;
- a revised list of issues and alternatives for treatment in the EIS;
- a list of significant issues identified for detailed treatment in the EIS and a list of non-significant issues with a discussion of why they are not significant;
- a detailed description of the proposed method of analysis, sources of information to be used, methods to be used to obtain additional information, and technical appendices or other reports required;
- a detailed estimate of the travel required,

including number of trips, purpose, need for rental aircraft and associated cost;

- a detailed list of proposed staff and staff qualifications;
- a schedule of all events related to preparation of the EIS; and
- a revised outline of the EIS.

C. Prepare a data request for distribution to the applicant(s). Based on a review of information provided by the applicant(s) for the proposed project(s), additional information already requested by the FERC staff, and other sources of information, the Contractor will provide FERC staff a list of any additional information required from the applicant(s) to perform the engineering and environmental analyses for the proposed project(s).

D. Prepare a preliminary draft EIS (PDEIS) for FERC staff review and, if necessary, for revision prior to distribution to cooperating agencies for their review. A coordination event (defined under "interactions" below) would be likely after receipt of cooperating agency comments. The PDEIS shall include recommendations on preferred alternatives and proposed certificate conditions to protect or enhance resources or to mitigate environmental impacts identified in the EIS.

E. Modify the PDEIS after receiving cooperating agency input as required by FERC staff and print and distribute the DEIS for public comment.

F. Critically review and analyze all comments on the DEIS, gathering additional information as deemed necessary by the FERC staff.

G. Modify the DEIS as required by FERC staff, and prepare, print and distribute the FEIS. This will require maintenance of a mailing list prepared by the contractor under the guidance of the FERC staff, and will include the FERC service list for the project.

H. Participate in the FERC hearing process as necessary.

II. Prepare an EA that complies with the NEPA and analyzes the environmental impact of the construction, operation, and maintenance of the proposed natural gas pipeline project(s). The EA may vary from the standard EIS format in order to

weigh the environmental impacts and consider the desirability of alternatives to the proposed project. The EA preparation process will normally include the tasks and procedures specified in Section I, paragraphs A-F, as appropriate.

When a document is specified in this Statement of Work or in the EIS or EA IP, the Contractor shall prepare a draft copy for review. This copy is due in accordance with the attached schedule. The draft copy shall conform to the format approved by the FERC staff. The number of copies of the draft document will be specified by the FERC staff. When providing the final document, the Contractor shall be prepared to provide a copy of each reference used in supporting the conclusions and recommendations made in the EIS or EA. Throughout the process, the Contractor will provide biweekly progress reports to the FERC staff, including summaries of all field inspections, meetings, and contacts with government agencies other than FERC, private individuals, and the applicant(s), and copies of all project-related correspondence.

GOVERNMENT-FURNISHED DOCUMENTS

The FERC staff shall furnish the Contractor a copy of the application(s) for the proposed project, and any supplements, all additional project information filed by the applicant(s), public comments on the application(s), and any legal and other filings in the record which the FERC staff believes to be relevant to the environmental analysis. This information will be reviewed by the Contractor and will provide the initial basis for evaluating the project. With the final copy of the EA or EIS on the specific project, the Contractor shall return all material furnished on that project, unless otherwise directed by the FERC staff.

INTERACTIONS

The Contractor will closely coordinate with the FERC staff. Locations of any meetings and identification of necessary participants will be decided by the FERC staff.

Coordination is required to allow the FERC staff to be briefed, either by teleconference or meetings in accordance with the specified schedule, on the current findings and direction of the Contractor's analysis. Coordination will be required for each section of the environmental documents specified in the schedule. It is anticipated that meetings will be needed for about 75 percent of these sections. This allows the FERC staff the opportunity to provide guidance to the Contractor in order to minimize the effort needed to generate final reports. At meetings, the Contractor will prepare, at a minimum, a briefing package or preliminary draft document of the section under

Senator Bradley, cont.

Question 2: Past experience has shown that environmental evaluation is many times the most time consuming aspect of processing applications for major pipeline construction proposals. It appears that this is due to procedural requirements, tremendous amounts of data that must be compiled and analyzed, and for staff evaluation and response to massive comments on the Draft Environmental Impact Statement issued by FERC. Would significantly increasing the number of professionals in your Environmental Assessment Branch expedite the evaluation and issuance of draft and final impact statements?

Answer: At this point in time, it is not really possible to estimate precisely the staffing requirements necessary to process the N.E. projects. However, it is likely that the environmental component will be the critical path. However, market, engineering, rate design, and supply considerations will also play an important role. The timing of the proceedings will also be affected by the time required to prepare for and conduct the hearing process. Once the final grouping of the N.E. Projects is determined, resources can be allocated to specific issues within each area.

It will then be possible to determine the specific actions and approach needed to expedite consideration of these projects while complying with our statutory obligation under the National Environmental Policy Act.

Senator Bradley, cont.

Question 3(a): Under FERC's rules, can't the Commission decide to bill applicants directly when the estimated staff processing time is more than five times the average for certificate filings?

Answer: Yes. The Commission's regulations, at 18 CFR, Section 381.107, provide for direct billing to recover the direct and indirect costs of processing filings that require an extraordinary amount of Commission time and effort. Under the rule, a filing will not be considered for direct billing unless the staff processing time is expected to exceed five times the average for that particular filing.

Question 3(b): And isn't the fee for certificate applications $15,000, which is based on average staff resources needed to process each application?

Answer: The current filing fee for pipeline certificate applications is $15,000. The fee is updated annually based on average staff resources needed to process each application.

Filing fees reflect the Commission's costs during the previous year for performing particular services. The fees bear a direct relationship to the average time spent to perform a particular type of service and the average cost per employee.

Question 3(c): Do you have an estimate of the average total cost of issuing a draft and final environmental impact statement for major gas pipeline construction?

Answer: We do not have an estimate of the average cost of issuing environmental impact statements. The Commission's time and workload tracking systems do not subdivide the work involved in certificate applications by type of subactivity. The cost of environmental work related to certificate application processing is included as part of the overall cost. More importantly, however, the cost of a specific environmental assessment would vary as a function of the location, magnitude, and complexity of the project proposed.

Senator Bradley, cont.

Question 3(d): Therefore, couldn't FERC add a significant number of environmental assessment staff to expedite the processing of these northeast gas cases without additional cost to FERC by direct billing applicants as permitted in its rules?

Answer: Adding staff to respond to a temporary increase in workload would not necessarily expedite the environmental process or be cost effective because of the lead time required to hire and train new employees and the fact that such employees would be needed only for the duration of the environmental review.

Moreover, direct billing would not make additional funds available because the Commission still cannot exceed the limits of its appropriation. One possible solution to this problem would be to permit the applicant to directly incur the cost by contracting for the work with a firm selected by FERC.

Senator Bradley, cont.

Question 4: If the directly billed environmental assessment costs were passed on by successful applicants in the gas rates, what kind of effect would it have on gas consumers?

Answer: If environmental assessment costs were directly billed all of the applicants would pay their share. However, successful applicants would be permitted to capitalize and include these amounts in their rate base. As customers that receive services from the project by amortizing them over the life of the project and earning a return on the unamortized balance. The unit impact would depend on the specific projects eventually approved.

If the cost were not directly billed, the Commission would incur the costs and recover them from the natural gas pipeline industry by way of annual charges. As its "name" implies, direct billing of cost, recovers the costs from the applicants.

Questions for the Record from Senator Howard M. Metzenbaum

Question 1: The final outcome of the Panhandle Eastern purchasing practices case, Docket No. TA84-1-28, may have a significant impact on gas consumers in Ohio and other states supplied by that pipeline. I understand that the hearing record is closed and has been awaiting a decision by FERC for many months. Likewise, the Columbia Gas fraud and abuse case, which represents potential refunds to consumers in the hundreds of millions of dollars, sat before FERC for many months before the Commission attempted to address the D.C. Circuit's remand order. Are protracted delays for these types of cases a result of insufficient legal and technical staffing levels?

Answer: The Commission currently has sufficient legal and technical staff and does not recommend any increase. When the Chairman took office, there was a large backlog of court remands and initial decisions issued by administrative law judges awaiting Commission decision. Between October 1, 1986 and March 1, 1988, the Commission has issued opinions on 52 percent of the initial decisions pending on October 1, 1986 and 36 percent of the initial decisions issued after that date. The Commission has also decided 86 percent of the court remands pending on October 1, 1986, and 61 percent of the cases remanded to the Commission since that date. With respect to the Columbia case, the Commission has issued several orders in that proceeding since May 1987 and anticipates issuing a final order on rehearing sometime this year. With respect to the Panhandle case, it is anticipated that an order will be presented to the Commission sometime this year.

Senator Howard M. Metzenbaum, cont.

Question 2: If Congress passed a regulatory fairness bill for natural gas rates that parallels S. 1567, as introduced by Senator Bumpers, would it expedite the final resolution of cases like the Columbia and Panhandle cases mentioned above? Would passage of gas or electric regulatory fairness bills require significant increases in FERC's budget?

Answer: Passage of a regulatory fairness bill paralleling S. 1567 would not expedite resolution of cases such as the Columbia and Panhandle cases. The primary effect of such a bill would be to allow the Commission, when it finds a rate to be unjust and unreasonable, to provide relief from the date a complaint concerning the rate was filed, rather than just from the date of the finding. There appears no reason to believe that the availability of this broader remedy would affect the speed at which cases like Columbia and Panhandle are resolved.

For similar reasons it is unlikely that passage of a regulatory fairness bill would require significant increases in the Commission's budget. While it is possible that the availability of a broader remedy might cause some additional cases to be filed, it does not seem likely that this would cause such a significant increase in workload as to require an increase in the Commission's budget.

Questions For The Record From Senator Johnston

Question 1: It is in everybody's interest to get this take-or-pay problem solved once and for all. The Commission has encouraged pipelines and producers to get together and settle these matters. and I understand that in some cases they have been able to do so. The question then becomes one of the recovery of those contract reformation and settlement costs. If this settlement process is to go forward, doesn't the industry need some assurance that it will be able to recover these settlement costs?

There are reports that at least in certain states there is talk that pipeline customers should not be allowed to flow through these settlement costs, even if they have been approved by FERC. In your discussions with state regulators has this subject come up and do you see it as a deterrent to future take-or-pay settlements? If so, does the Commission, perhaps working through the National Association of Regulatory Utility Commissioners, have a role to play in getting this problem solved?

Answer:

In Order No. 500 the Commission established a passthrough mechanism for take-or-pay costs that would provide assurances that pipelines can collect a portion of the costs of take-or-pay settlements after absorbing an equitable share of these costs. To qualify for the passthrough mechanism the pipeline must file to recover the costs prior to January 1, 1989. If a pipeline agrees to absorb between 25 to 50 percent of its take-or-pay costs, that pipeline is permitted to recover through a fixed charge an amount equal to the amount it has agreed to absorb. The pipeline is also permitted to seek recovery of any remaining take-or-pay costs through a volumetric surcharge.

The pipeline's customers may challenge the pipeline's rights to collect these costs on the grounds that the costs were the result of imprudent management by the pipeline. However, if a customer makes such a challenge, the pipeline can revise its proposal to seek to recover that customer's share of all costs that are ultimately found to be prudent. Thus, the pipeline could potentially recover more of its settlement costs than it initially requested. The Commission believes that the passthrough mechanism represents a reasonable balance between the goals of providing regulatory certainty to encourage the settlement of take-or-pay problems as well as protecting the interests of pipelines' customers from being charged unjust or unreasonable rates.

Senator Johnston, cont.

Certain state regulators have discussed the possibility of requiring local distribution companies to absorb a share of the take-or-pay costs billed to them by their pipeline suppliers. This is only one of the options that the state regulators are considering. We are not aware that any state commissions have made a final decision to require distributors to absorb a share of these costs. Also, we are not aware that any consideration by state commissions of distributor sharing has adversely affected the course of negotiations between pipelines and producers to settle take-or-pay problems. The Commission has discussed the resolution of the take-or-pay problem with state commissions through meetings with the National Association of Regulatory Utility Commissioners. However, the extent and method of passthrough of take-or-pay costs in the rates of distributors are issues that are within the jurisdiction of the state commissions and not the FERC.

Senator Johnston, cont.

Question 2: In the recent Order No. 490 dealing with abandonment, the Commission described the provisions of Order No. 500 as being a comprehensive treatment of the take-or-pay problem...where the Commission, "after making a 'thorough examination' of all aspects of the problem, weighted and balanced the various competing interests." Should you make that statement when your own survey of the industry take-or-pay problem is incomplete? Does this mean that the provisions of Order No. 500 are the extent of take-or-pay relief that can be expected from the Commission?

When will the results of the FERC study assessing the industry's take-or-pay situation be completed and released?

Can you share with us any preliminary findings of that study?

Answer:

The Commission's statements in Order No. 490 should not be construed as a decision regarding whether the take-or-pay relief provisions in Order No. 500 may be changed in the final rule. The take-or-pay crediting provisions, the mechanisms for the flowthrough of buyout the buydown costs, gas inventory charge and the data request included in Order No. 500 were intended as a comprehensive treatment of the take-or-pay problem based on the information then available to the Commission. However, Order No. 500 is an interim rule and the Commission has scheduled public hearings on it on April 11 and 12. The Commission intends to thoroughly review both the data submitted by the pipelines and the oral and written comments on Order No. 500. Based on this review and to the extend appropriate, the Commission will make modifications in the extent or nature of the take-or-pay relief included in the final rule.

On August 26, 1987, the Commission sent a comprehensive take-or-pay Data Request to certain interstate gas pipelines. Responses from these pipelines are being actively processed and aggregated. The Commission intends to complete this process as soon as possible. However, at this time it is impossible to provide a date when this process will be completed. For this reason, preliminary findings are not available at this time.

Senator Johnston, cont.

Certain state regulators have discussed the possibility of requiring local distribution companies to absorb a share of the take-or-pay costs billed to them by their pipeline suppliers. This is only one of the options that the state regulators are considering. We are not aware that any state commissions have made a final decision to require distributors to absorb a share of these costs. Also, we are not aware that any consideration by state commissions of distributor sharing has adversely affected the course of negotiations between pipelines and producers to settle take-or-pay problems. The Commission has discussed the resolution of the take-or-pay problem with state commissions through meetings with the National Association of Regulatory Utility Commissioners. However, the extent and method of passthrough of take-or-pay costs in the rates of distributors are issues that are within the jurisdiction of the state commissions and not the FERC.

Chairman J. Bennett Johnston, cont.

Question 3: Order No. 500 was issued as an interim rule in response to the D.C. Circuit's remand of Order No. 436. When do you expect to issue a final rule?

Answer: The Commission is currently analyzing the thousands of pages of comments on the interim rule filed by representatives of every segment of the natural gas industry. In addition, pursuant to NGPA section 502(b), the Commission has scheduled a public hearing, on April 11, 1988, to provide interested persons an opportunity to make oral presentations of their views on Order No. 500. In the notice scheduling that hearing the Commission stated that it would also accept written comments of not more than 15 pages summarizing the position of parties making oral presentations. After the April hearing, additional time will be required to analyze the views expressed by the participants in that hearing. However, the Commission intends to complete this process and develop the final rule as expeditiously as possible.

Since the temporary modifications to the crediting provisions adopted in Order No. 500-C were scheduled to expire on March 31, 1988, the Commission, on March 8, issued Order No. 500-D continuing those modifications in effect unless changed by a final rule.

Questions from Senator Bingaman For FERC
Chairman Martha Hesse Concerning FY89 Budget Request

Question No. 1: If S. 1973, the Bill I recently introduced, were enacted, it would restore Natural Gas Act Section 3 import authority to FERC from the Economic Regulatory Administration (ERA). Doesn't FERC compile the same type of market data for the record in its analysis of proposed pipeline projects where the gas is imported as ERA now does separately?

Answer: First of all, there are instances in which only one of the two agencies has occasion to compile an evidentiary record on a matter related to imports. For instance, the Economic Regulatory Administration has issued a number of blanket authorizations to import gas under circumstances in which no applications were filed contemporaneously at the Commission. Similarly, the Commission issued a blanket certificate to the Northern Border pipeline authorizing blanket transportation of Canadian gas independent of any particular proposed import of such gas.

In instances in which related applications are filed contemporaneously at both the ERA and the FERC in conjunction with the same import project, the nature of the economic data compiled at the Commission depends on the nature of the authority sought. Some import projects involve construction of new facilities, while others do not. Some are competitive with other proposed projects, while others are discrete. Some involve transportation while other involve sales for resale. Some are new proposals while others are extensions of existing service. Some are contested while others are not. All of these factors may affect the nature of the data collected for the record, and the nature of the proceedings by which those data are analyzed.

There are also differences in the statutory standards. The standard under Section 3 of the Natural Gas Act is whether the proposed import "will not be inconsistent with the public interest." The standard under Section 7 of the Natural Gas Act is whether the proposed construction, transportation or sale for resale "is or will be required by the present or future public convenience and necessity." The data required by the ERA is described at 10 C.F.R. § 590.202; the market data required by the Commission is described at 18 C.F.R. § 157(a)(11). In general, in authorizing imports the ERA requires a contract from the purchasing party or evidence that the imports will be competitive. In authorizing construction of new facilities, for instance, the Commission requires a positive showing of marketability that takes into account the cost of constructing the new facilities, with comparison to use of existing supplies and facilities.

In the area of market data, the ERA's regulations require the applicant to provide a discussion of the "need for the natural gas by the applicant or applicant's prospective customers, including a description of the persons who are expected to purchase the gas." [10 C.F.R. 590.202(b)(6)] The ERA requires documentation to support factual matters "to the extent practicable." The ERA's regulations further state that "copies of relevant

documents filed or intended to be filed with FERC may be submitted to satisfy the requirements." [10 C.F.R. 590.202(b)]

The FERC's regulations require studies which show annual system-wide natural gas delivery data for a 3-year actual period and a 3-year projected period, as well as for peak days. The delivery data must be broken out by customer class (i.e, residential, commercial, industrial, etc.) and the name and location of any larger customers. [18 C.F.R. 157.14(a)(11)(i) and (ii)] These studies are in addition to the applicant's providing copies of all sales and transportation contracts for the imported natural gas involved. [18 C.F.R. 157.14(a)(11)(v)]

Senator Bingaman, cont.

Question No. 2: Could the economic and environmental records made at FERC when a gas project proposal involves an import serve as a sufficient record to determine whether the import is in the public interest under Section 3 of the Natural Gas Act?

Answer: As noted above in the answer to question no. 1, the nature of the record compiled at the Commission varies depending on the nature of the case. When there is an import-related application at the Commission, the economic data compiled at the Commission pursuant to Section 7 of the Act may well be pertinent and sufficient to analyze the Section 3 issues, at least with respect to the marketability of the proposed import. There might, however, be other types of data, such as with respect to the nature and reliability of the supply, for which the ERA might collect data pursuant to Section 3 while the Commission would defer to the ERA's findings when considering the Section 7 issues.

When a proposed import project requires significant environmental data and analysis, the Commission generally acts as the lead agency in preparing the environmental data needed by both the ERA and the FERC in reaching their respective decisions. Thus, with respect to environmental data and analysis, the Commission's record compiled for Section 7 purposes could be used for Section 3 purposes without further supplementation.

Senator Jeff Bingaman, cont.

Question No. 3: Would the restoration of import authority to FERC streamline the processing of proposals or avoid the problem of reconciling potentially inconsistent decisions by FERC and ERA?

Question No. 7: In your opinion, are there any policy, administrative, or efficiency reasons why import authority should not be restored to FERC?

Answer: In essence, question no. 3 pertains to the potential advantages of transferring NGA Section 3 authority to the FERC, while question no. 7 pertains to the potential disadvantages. Inasmuch, as these matters are best considered in context with each other, the two questions will be answered together.

The principal argument in favor of combining the various functions in a single agency is administrative efficiency. The function of authorizing the importation and exportation of natural gas under Section 3 of the Natural Gas Act is closely related to the function of authorizing the transportation and sale for resale of that gas after it has been imported or before it has been exported, and the function of authorizing facilities, rates and tariffs to implement those transactions. Such ancillary functions are performed under other sections of the Natural Gas Act, including Sections 4, 5 and 7. These functions, in turn, are closely related to the regulation of the transportation and sale for resale of domestic gas under the same sections of the Natural Gas Act. Indeed, in many instances gas of domestic and imported origin are commingled in the same interstate stream of gas. Regulation of the transportation and sale for resale of imported gas (whether or not commingled with domestic gas) may also involve consideration of the pass-through in domestic rates and tariffs of costs (and the classification of costs into demand and commodity components) incurred in the country from which the gas was imported.

Consolidation of these statutory functions in a single agency would streamline the decisional process by reducing the potential for overlapping filings and multiple proceedings. It would also eliminate the potential for inconsistencies between the ERA and the FERC. However, during the ten years since enactment of the Department of Energy Organization Act the ERA and the FERC have avoided such inconsistencies.

These considerations of administrative efficiency must be weighed in conjunction with considerations of policy and practice. Gas import decisions frequently involve sensitive issues of foreign policy. There may be important reasons for encouraging imports from some countries and discouraging them from others -- reasons that involve overall relationships with those countries on a broad spectrum of foreign policy issues and long range objectives. The Secretary of Energy is in a better position than the Commission to weigh and balance these broader considerations, and to deal with them in a diplomatic manner.

The Commission must decide cases on a formal evidentiary record, often in an adversarial proceeding. If the political stability of a foreign government as a secure supplier of gas is an issue in a contested case, it would have to be resolved through formal administrative hearings, with cross-examination under oath and explicit written findings based on record evidence. While foreign governments may well accede to a politely framed decision not to import their gas, formal findings on a record as to their political reliability as trading partners could be inflammatory and damaging to U.S. foreign policy interests.

The Secretary of Energy is also in a better position to negotiate the terms and conditions of gas trade in quid pro quo diplomatic bargaining. The FERC, however, cannot engage in that type of give and take proceeding. The FERC acts on applications filed with it, and must resolve those issues on their individual merits, on their records, on a case-by-case basis. Finally, the Secretary of Energy would be at a disadvantage in international negotiations if the agreements he negotiated were subject to subsequent administrative proceedings before an independent agency.

Senator Bingaman, cont.

Question 4 : Prior to FERC's issuance of Opinion 256, wasn't it ERA's standing request that FERC allow gas into the U.S. "As-Billed" from Canada? Didn't ERA contend that FERC lacked authority to change any effects of ERA's import approval?

Answer: Prior to the issuance of Opinion No. 256, the ERA had expressly recognized the Commission's authority under Sections 4 and 5 of the Natural Gas Act to examine the methods for flowing through the costs of imported gas in U.S. pipelines' resale rates, as the Commission did in Opinion No. 256, to ensure that Canadian and domestic gas supplies are treated no differently. The ERA stated this in Natural Gas Pipeline Company of America, 1 ERA ¶ 70,645 at p. 72,533 (1986).

Senator Bingaman, cont.

Question 5: Does ERA generally file comments or testimony in case involving imports before FERC? What is the nature and extent of ERA's participation in FERC import proceedings?

Answer: No. The ERA has only participated once in FERC import proceedings, and only to the extent that it officially adopted the record complied by a FERC administrative law judge. ERA did not cross-examine any witnesses nor prepare any of the material in the record of that case. (See Trunkline LNG Company, ERA Docket No. 82-12-LNG; FERC Docket No. CP74-138-003, et al., 21 FERC ¶61,041.)

Senator Bingaman, cont.

Question 6: Could FERC's environmental assessment units handle the preparation of the 3-4 environmental impact studies for energy imports outside FERC's jurisdiction that the ERA FY89 budget request estimates will cost $450,000 in outside contracts?

Answer: The Office of Pipeline and Producer Regulation's (OPPR's) Environmental Analysis Branch could not handle an additional 3-4 environmental studies for imports outside FERC's jurisdiction.

Questions for the Record from Senator James A. McClure

Question 1: Would you provide for the record a fiscal year 1988 baseline table by program indicating —

a. the budget authority and estimated outlays as appropriated by the Congress;

b. any proposed rescissions or deferrals; and

c. any anticipated supplemental appropriations.

Answer: The FY 1988 appropriation is $100,000,000. The estimated outlays are $105,026,000. The Commission has no proposed rescissions or deferrals and does not anticipate any supplemental appropriations.

Distribution by Program of the FERC's FY 1988
Budget Authority and Outlays
($000's)

Program	Budget Authority	Outlays
Natural Gas	$ 46,623	$ 48,966
Hydropower	27,348	28,723
Oil Pipeline	3,754	3,943
Electric Power	$ 22,275	$ 23,394
Total	$ 100,000	$ 105,026

Senator James A. McClure, cont.

Question 2: For each rescission, deferral or supplemental appropriation indicated in question 1, would you provide for the record its justification and status?

Answer: No rescissions, deferrals, or supplemental appropriations are anticipated.

Senator James A. McClure, cont.

Question 3: Would you provide for the record a fiscal year 1989 appropriations account baseline table (commonly referred to as the Holifield table), indicating the request (a) made by each program of the Commission; (b) made for each program by the Commission to OMB; and (c) included in the President's proposed budget?

Answer: The Commission's FY 1989 requests to the Office of Management and Budget (OMB) and Congress by program are outlined below.

Distribution by Program of the FERC's FY 1989
OMB and President's Budget Requests
($000's)

	FY 1989 OMB Request	FY 1989 President's Budget
Natural Gas	$ 51,743	$ 49,089
Hydropower	32,211	30,104
Oil Pipeline	3,929	3,928
Electric Power	$ 24,484	$ 23,639
Total	$ 112,367	$ 106,760

Senator James A. McClure, cont.

Question 4: Would you provide for the record a table indicating --

a.any assumptions regarding carryover of fiscal year 1988 appropriations into fiscal year 1989.

b.any proposed or anticipated supplemental appropriations?

Answer: The Commission anticipates no carryover of FY 1988 appropriations into FY 1989, and does not anticipate submitting any supplemental budget requests to the Congress during FY 1988.

Senator James A. McClure, cont.

Question 5: Would you provide for the record a list of any assumptions in the President's proposed budget that require legislation? In each case would you —

a. provide a statement of purpose;

b. provide the proposed language (if available) or indicate if, or when, the Administration intends to transmit such language to the Congress: and

c. indicate whether, in the judgment of the Administration, such legislation would be sought from the Energy and Natural Resources Committee or as a rider on an appropriations act.

Answer 5: The budget request for FY 1989 does not assume passage of any new legislation. However, the Commission's annual charges authorized by the Omnibus Budget Reconciliation Act of 1986 are undergoing challenges in court as to their constitutionality. Depending on the outcome of these challenges, the Commission may consider requesting a legislative remedy to specify the methodologies for assessing annual charges.

Senator McClure cont.

Question 6: Chairman Hesse, as you know Northwest Pipeline has for some time been seeking an acceptable blanket certificate so that it could become an open access transporter of natural gas.

I and the other Members of the Northwest Congressional delegation -- House and Senate, Republican and Democrat -- have written numerous letters to you urging that the Commission do what is necessary to enable Northwest Pipeline to become an open access transporter.

Consumers in our region could take advantage of available supplies of low-cost spot-market natural gas if the Commission were to issue, and Northwest Pipeline were to accept, the necessary certificate.

The key impediment to Northwest Pipeline becoming an open access transporter has been the Commission's seeming inability -- or unwillingness -- to address the take-or-pay problems that would arise out of their becoming an open access transporter. Twice the Commission has issued Northwest a blanket certificate without addressing their take-or-pay problems, and twice -- to no one's surprise -- Northwest has rejected it.

The latest go around on this has been most distressing. In case you have forgotten, last October 19 Senators Hatfield, Packwood, Symms, Evans, Adams and I wrote you urging that Northwest Pipeline's pending proposal be approved. In that letter we noted that while some parties had expressed concerns or reservations about particular parts of Northwest's proposal, it was supported overall by the vast majority of gas consumers in the Pacific Northwest. We also noted that Northwest's proposal preserved the rights of the parties to raise their concerns and reservations in the pipeline's next rate case, which was to be filed within a few months.

At the time we sent this letter, the transportation problem had become so acute that I found myself compelled to intervene on behalf of an Idaho firm, Nu-West, in its efforts to obtain gas transportation services. To my great distress, the Commission rejected Nu-West's request and my recommendations.

When the Commission issued Northwest Pipeline's blanket certificate on January 19 of this year, even a cursory reading of the Order left little doubt that it was going to be unacceptable to Northwest Pipeline. In addition to making major changes to Northwest's proposal, the Order severed out and set for hearing one of the most significant -- and essential -- elements of the settlement offer, the so-called gas inventory charge. By severing out the gas inventory charge from the blanket certificate, the Commission was, in effect, building a car without an engine: it might roll off the assembly line, but it sure wasn't going to go anywhere until the engine was put back in.

And this assessment was borne out by subsequent events; Northwest found the order unacceptable and has filed for rehearing. Moreover, it is my understanding that the Commission is now considering the question of whether Northwest Pipeline's gas inventory charge proposal should be dismissed.

Senator McClure cont.

Fortunately for gas consumers in my State, Northwest Pipeline recently elected to partially open its system to transportation on behalf of local distribution companies, so-called NGPA section 311 transportation. While this will bring some price relief to gas consumers in the region, it is not a permanent solution. As you know, under section 311 of the NGPA, Northwest Pipeline can, at any time and on its own initiative, cease transporting gas. This potential certainly blunts the ability of local distribution companies to secure the cheapest gas through long-term gas contracts, as Northwest Pipeline can close its system at any time they want. And unfortunately, section 311 transportation is not available to industrial firms, thereby denying them direct access to low-cost spot market gas.

With that as a preface, I would like to ask a simple question: When will FERC take the actions necessary to enable Northwest Pipeline to become an open access transporter of natural gas?

Answer: The Commission has received ten requests for rehearing of the January 19, 1988 order that extended a blanket certificate to Northwest and hopes to address the numerous issues raised in the near future. In evaluating proposals by pipelines to perform such transportation, the Commission must consider all points of view and must apply reasonably consistent standards. The Commission's modifications to Northwest's settlement proposal were similar to modifications that have been imposed in other cases and were modifications that the Commission determined were necessary to insure that transportation provided by Northwest is consistent with the standards of the Natural Gas Act and the Commission's regulations. Although Northwest has not yet chosen to accept the blanket certificate granted by the Commission in its January 19 order while the Commission considers its rehearing request, it might ultimately decide to do so.

With respect to the gas inventory charge that you mention, the Commission set this issue for hearing on an expedited basis. The Commission followed this course because it determined that, not only was Northwest's gas inventory charge proposal inconsistent with the principles set out in Order No. 500, but the proposal also would result in a significant change in the service relationship between Northwest and its sales customers requiring an amendment to Northwest's sales certificate under section 7 of the Natural Gas Act. Section 7 of that Act mandates that any such change must be found to be required by the public convenience and necessary. As the Commission found the evidence presented on the GIC to be both disputed and inconclusive, it could not make the required section 7 finding and therefore set the certificate issue for hearing as it has in a number of other cases.

You also refer to the fact that although Northwest is now open under section 311, such transportation is not available to industrial firms, and Northwest may "close its system at any time they want." It should be pointed out that an industrial firm may benefit from transportation performed under section 311, so long as a local distribution company or intrastate pipeline receives some benefit from the transaction. An LDC need not physically receive the gas to satisfy this statutory requirement. The Commission is also empowered to take appropriate action if it determines that Northwest closed its system in an unduly discriminatory manner.

Senator James A. McClure, cont.

Question 7: As you know, hydropower is a very important and sensitive issue in the Northwest region of the United States. the need for power and environmental issues are very complex, and often are at odds with each other.

I understand that the Commission is now considering issuing an Order delegating a considerable amount of its decisionmaking power to the staff of the Office of Hydropower Licensing.

That potential action concerns me. I very strongly believe that the Commission itself must be the decision maker -- not staff.

I would appreciate it if you would work with me and my staff to make sure that any Commission Order in this matter does not go beyond that which is proper. Will you do so?

Answer: The Commission is not considering an order delegating a considerable amount of its decisionmaking power to the staff of the Office of Hydropower Licensing. Historically, the Commission has granted authority to its office directors to rule on matters that are routine and do not raise new policy issues. In general, the additional delegations under consideration require limited discretionary decisionmaking on the part of the named office director, and provide that the persons affected by a delegated decision may petition the Commission for a review of a staff decision.

Questions for the Record from Senator Don Nickles

Question 1: Will FERC have to enforce the various IPP contracts, which will be filed with the Commission, and hear complaints about contract performance? Will additional staff resources be needed to perform that task effectively?

Answer: The Commission's responsibilities for IPP contracts will be no different than for any other jurisdictional contract. While the Commission interprets rate-related provisions in jurisdictional contracts, it normally does not hear contract performance disputes. Such disputes are more properly a matter for state courts. It is not expected that additional staff resources will be needed due to any IPP contract enforcement problems.

Senator Don Nickles, cont.

Question 2: I understand that the NOPRs, if adopted, would forbid utilities from negotiating independently, outside of the bidding process. Will FERC need additional staff to enforce that prohibition? If someone complains to FERC that a utility has been talking privately to a potential supplier, would FERC have to hear those complaints?

Answer: The February 17 draft of the bidding NOPR proposed that utilities using bidding to acquire capacity would be prohibited from independently negotiating for capacity purchases from the time the bid solicitation is announced until the time final contracts are signed. The February 17 draft has subsequently been modified so as to apply only to the particular block of capacity being acquired through bidding and only after the date final bids are to have been submitted. For example, a utility requesting bids on 500 MW of baseload capacity due on-line in 1995 could still negotiate independently for acquisition of peaking capacity or a different increment of base load capacity due on-line at a different time. It could also continue to negotiate with regard to capacity subjected to the bidding process until the date final bids are to be submitted. Negotiations would only be barred during the period the bids are being reviewed for purposes of selecting the winning bids. The NOPR asks for comments on whether such a restriction is necessary to the fair operation of bidding programs.

The Commission is unlikely to need any additional staff because of this proposed condition on bidding programs. If the proposed condition were adopted in a final rule, state regulatory authorities and non-regulated electric utilities would be required to conform their bidding programs. If a regulated utility violated this condition, the violation would be of state rules -- and the state authorities would be responsible for disciplining the utility. Only if a non-regulated electric utility adopted bidding and violated the negotiation rule should complaints be directed to the Commission.

Complaints can be brought either to the Commission or to the courts. If a complaint is brought to the Commission, the Commission is not legally obligated to accept it. PURPA provides that a petitioner may bring an action in the appropriate United States district court if the Commission does not initiate an enforcement action within 60 days.

Senator Nickles, cont.

Question 3: I understand that once a utility or IPP files its rates with FERC, those rates will still be subject to a complaint that they are unjust and unreasonable under the Federal Power Act. Will FERC still be able to claim that a utility or an IPP is earning too high a rate of return, based on its cost of service? If so, will FERC have to maintain the same number rate of return experts and cost of service experts as it now has?

Answer: Utilities that are unable to qualify as an IPP will not file non-cost based rates under the Commission's proposed IPP rule. Rather, they will have an opportunity to establish non-cost based rates under the Commission's proposed Bidding rule or in case by case filings. Even though a utility qualifies as an IPP for a particular transaction, its remaining wholesale sales will remain subject to the full force of the Commission's regulation (except to extent such rates are established through bidding or are the subject of a special filing requesting flexible rate treatment). The Commission's review of the utility's remaining cost-based electric services will not be affected and this activity will continue to be subject to full regulation.

Regarding IPPs, the Commission proposes to approve their rates under Sec. 205 if the rates do not exceed a cost based price cap representing the purchasing utility's avoided cost. The Commission routinely would not entertain protests where the IPP successfully demonstrates the price cap was obtained through either of two procedures involving oversight by a state commission: (1) an administrative proceeding conducted to establish the purchasing utility's avoided cost, or (2) bidding held under appropriate rules where the price cap would be the highest winning bid.

There is a third way to establish the avoided cost price cap. For negotiated IPPs rates, any price voluntarily agreed to by an IPP and its customer at or below an avoided cost determined by the purchaser would be accepted, unless a party protests that the rate is too high. Then the IPP would bear the burden of proving that the avoided cost price cap was accurate. As with any contested rate filed under Section 205 of the Federal Power Act, if the filed rate is ultimately found to exceed the just and reasonable ceiling (in this case the avoided cost), the excess would be refunded by the seller with interest. Of course, rates for sales by IPPs could be challenged at anytime under Section 206 of the FPA.

For jurisdictional utilities that do not qualify as IPPs, but that participate in competitive bidding, the Commission is also inclined to accept the bidded rates as just and reasonable under Sec. 205. The involvement of state regulators and rivalry among sellers would provide restraint on participants' ability to exercise significant market power. Consumers would also be protected by the fact that rates cannot exceed the utility's avoided cost. Of course, as in the case of IPPs, the Commission would always be empowered to investigate a jurisdictional bidder's cost of service, if necessary, pursuant to Section 206 of the Federal Power Act.

Senator Nickles, cont.

The Commission will not need to examine the cost of service in order to find that the rate charged by an IPP is just and reasonable. IPPs rates will be set by the market, subject to a price cap to ensure the rates are just and reasonable. Utilities where rates are not set through bidding and for which they do not qualify as IPPs would remain subject to cost of service regulation. Therefore they will remain subject to review for excessive rates of return unless they apply for special treatment on case-by-case basis. For the foreseeable future, the incidence of cost-based rate filings is not expected to be significantly altered by the Bidding and IPPs rules because non-cost based power transactions are, for the most part, expected to supplement rather than supplant cost-based transactions.

Senator Nickles, cont.

Question 4: Is the Commission planning to provide an adequate period for comments to be filed in response to the NOPRs? Are you considering 120 days, or will you insist on keeping the 60 days as originally indicated?

Answer: The Commission recognizes that the issues raised by the NOPRs and the interest shown by the public warrant a longer comment period than usual. The Commission is currently considering a number of different comment periods.

Senator Nickles, cont.

Question 5: Are you proposing to change the PURPA ratio of industrial activity to sellable electricity?

Answer: The FERC has conducted Regional Hearings on PURPA implementation in which comments were solicited to determine if changes need be made in the current regulations (Docket No. RM87-12). Among the questions considered was the adequacy of existing qualification standards. In those hearings, various entities argued that the current regulations encourage "PURPA machines" --oil or gas-fired cogeneration facilities that produce more electricity and burn more fuel with less efficiency than would be the case if the facilities were properly sized to meet their thermal needs. The Commission is reviewing these comments as well as those arguing for maintaining the status quo.

Among the options under consideration is a NOPR that would modify the existing technical standards requiring a higher operating standard. Among the considerations for such a NOPR would be the relationship to and need for such standards when viewed in conjunction with other proposals being considered such as the NOPRs relating to independent power producers and competitive bidding.